Westport Shoreline Master Program

Shoreline Master Program

Environment Designations, Policies, & Regulations

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LIST OF ABBREVIATIONS

BAS –	Best Available Science
BMPs –	Best Management Practices
CAC –	Citizen Advisory Committee for the Shoreline Master Plan Update Process
CAO –	Critical Areas Ordinance
CARA –	Critical Aquifer Recharge Areas
City –	City of Westport
DAHP –	Washington State Department of Archaeology and Historic Preservation
Ecology –	Washington State Department of Ecology
ESA –	Federal Endangered Species Act
FEMA –	Federal Emergency Management Agency
FIRM –	Flood Insurance Rate Map
GHEMP –	Grays Harbor Estuary Management Plan
GMA –	Washington State Growth Management Act (Chapter 36.70A RCW)
HPA –	Hydraulic Project Approval
LUPA –	Land Use Petition Act
OHWM –	Ordinary High Water Mark
ORMA –	Ocean Resources Management Act (Chapter 43.143 RCW)
RCW –	Revised Code of Washington
SEPA –	State Environmental Policy Act (Chapter 43.21C RCW)
SHB –	Washington State Shorelines Hearings Board
SMA –	Shoreline Management Act (Chapter 90.58 RCW)
SMP –	Shoreline Master Program
State –	State of Washington
TAC –	Technical Advisory Committee for the Shoreline Master Plan Update Process
USACE –	United States Army Corps of Engineers

WAC – Washington Administrative Code

WDFW – Washington State Department of Fish and Wildlife

WDNR – Washington State Department of Natural Resources

WSDOT – Washington State Department of Transportation

WMC – Westport Municipal Code

1 INTRODUCTION

1.01 REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT

The State Legislature passed the Shoreline Management Act (SMA) (Chapter 90.58 Revised Code of Washington [RCW]) in 1971 and citizens of the state approved the SMA through referendum in 1972 "…to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The SMA requires that the city of Westport to plan for the use of shorelines of the state within its jurisdiction. The SMA and Chapter 173-26 Washington Administrative Code (WAC) established broad policies that give preference to shoreline uses that:

- **Encourage water-dependent uses**: "…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 states' shorelines…"
- **Protect shoreline natural resources**: including "…the land and its vegetation and wildlife, and the waters of the state and their aquatic life…"
- **Promote public access**: "…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 people generally."

The SMA recognizes that "…shorelines are among the most valuable and fragile…" of the state's resources. The city recognizes and protects private property rights in shoreline jurisdiction, while aiming to preserve the quality of these unique resources for all state residents.

The primary purpose of the SMA is to manage and protect the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the SMA establishes a coordinated planning program between the city and the state to address development and uses occurring in the state's shorelines.

Under the SMA, a Shoreline Master Program (SMP) was created and implemented based on a cooperative program of shoreline management between the city and the state. With citizen contributions collected through the city's shoreline planning process, the city developed this SMP, and will implement and administer it through the shoreline permitting process. The Washington State Department of Ecology (Ecology) provided funding for the update, and reviews and approves the city's SMP and certain local shoreline permit decisions.

1.02 AUTHORITY

The Shoreline Management Act of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of the SMP. The Shoreline Administrator is appointed by the Mayor and is charged with the responsibility of administering the SMP.

1.03 PURPOSE AND INTENT

The four purposes of the SMP are to:

A. Carry out the responsibilities imposed on the city by the SMA;

B. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the city;

C. Further, by adoption, the policies of the SMA and the goals of the SMP; and

D. Comply with the state SMP Guidelines (Chapter 173-26 WAC); including a particular focus on regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

1.04 SHORELINE MASTER PROGRAM DEVELOPMENT

The city obtained grant number G1400393 from Ecology in 2014 to conduct a comprehensive SMP update. The first step in the update process involved an inventory of the areas of the city subject to the SMA. The Pacific Coast and Grays Harbor shorelines and their associated wetlands comprise the areas in the city subject to the SMA. There are over 13 miles of coastline that meet the definition of shorelines of the state in the city.

The Public Participation Plan guided public interaction throughout the development of the SMP. The Citizen Advisory Committee (CAC), composed of all citizens who attended regularly scheduled meetings of the Planning Commission, reviewed SMP documents, particularly proposed shoreline environment designations, policies, and regulations, and provided feedback in a series of public meetings.

The Shoreline Inventory and Characterization described existing biological and physical conditions for the six shoreline reaches covering the city. These reaches were analyzed and characterized to create a baseline from which future development actions in shoreline jurisdiction will be measured. A Technical Advisory Committee (TAC) reviewed and commented on the Shoreline Inventory and Characterization.

The public discussed the findings of the Shoreline Inventory and Characterization and proposed shoreline environment designations at a community meeting. Shoreline environment designations were assigned for shoreline jurisdiction in the city. Then goals, policies, and regulations for each shoreline environment designation and for all activities subject to the SMA were developed to maintain the baseline condition. The CAC and the public reviewed these documents.

In the Cumulative Impacts Analysis and the No Net Loss Report, the city evaluated whether the updated SMP, implemented over time, yields no net loss of shoreline ecological functions when considering reasonably foreseeable development in shoreline jurisdiction relative to the baseline established by the Shoreline Inventory and Characterization.

The city developed the Restoration Plan to address voluntary, non-regulatory actions the city would take to improve shoreline jurisdiction above the baseline condition. Ideally, the SMP, in combination with other city and regional efforts, will ultimately produce a net improvement in ecological functions of the shoreline.

1.05 APPLICABILITY

A. The SMP shall not apply retroactively to existing, legally established structures, uses, and developments in place at the time Ecology adopts the SMP.

B. All proposed uses, activities, and development occurring within shoreline jurisdiction must conform to the SMA and the SMP whether or not a permit or other form of authorization is required, except when specifically exempted by statute.

C. In addition to the requirements of the SMA, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of the private property.

D. Federal agencies are subject to this SMP and Chapter 90.58 RCW, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and WAC 173-27-060(1).

E. As recognized by RCW 90.58.350, the provisions of the SMP do not affect treaty rights of affected tribes.

1.06 SHORELINE JURISDICTION

1.06.01 EXTENT OF SHORELINE JURISDICTION

The SMA defines the extent of the geographic area in the city subject to the SMP, which is referred to as the shoreline jurisdiction in the SMP. According to RCW 90.58.030, the SMP applies to the following shorelines of the state within the city:

A. The area between the ordinary high water mark (OHWM) and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets.

B. Shorelands adjacent to these waterbodies. These include:

   1. Lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM;

   2. Adopted Federal Emergency Management Agency (FEMA) floodways, and contiguous floodplain areas landward two hundred feet from such adopted FEMA floodways; and

   3. All wetlands associated with tidal waters subject to the SMA.

The Pacific Ocean and Grays Harbor and their shorelands are subject to the SMA and the city's SMP.

According to RCW 35.21.160, the city's shoreline jurisdiction extends offshore to the three mile territorial limit of the state in the Pacific Ocean and to the middle of the marine channel between the cities of Ocean Shores and Westport and extends to the middle of Grays Harbor. The city will need to coordinate with Ecology and the other jurisdictions in Grays Harbor County on a case-by-case basis to avoid creating jurisdictional conflicts.

As recommended by the CAC and Planning Commission and approved by the City Council, the city chose not to include additional subareas in shoreline jurisdiction during the SMP planning process. These additional areas included the following:

- All or a portion of the one-hundred-year-flood plain beyond the contiguous floodplain areas landward two hundred feet from adopted FEMA floodways.
- The "…land necessary for buffers for critical areas as defined in Chapter 36.70A RCW that occur within shorelines of the state."

The extent of shoreline jurisdiction in the city is depicted on the official shoreline map included in SMP Appendix 1: Shoreline Environment Designation Map. The map only approximately represents the lateral extent of shoreline jurisdiction. The actual lateral extent of shoreline

jurisdiction shall be determined on a case-by-case basis established by the location of the OHWM, the adopted FEMA floodway, and the presence of associated wetlands. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any use, activity or development on that portion of the parcel within the shoreline jurisdiction is subject to the SMP.

The actual location of the OHWM, floodway, floodplain, and wetland boundaries shall be determined at the time a development is proposed.

1.06.02 SHORELINES OF STATEWIDE SIGNIFICANCE

A. Adoption of Policy

In implementing the objectives for shorelines of statewide significance, the city based decisions in preparing the SMP on the following policies in order of priority, with one being the highest and seven being the lowest.

1. *Recognize and protect the statewide interest over local interest.*
2. *Preserve the natural character of shoreline jurisdiction.*
3. *Support actions that result in long-term benefits over short-term benefits.*
4. *Protect the resources and ecology of the shoreline.*
5. *Increase public access to publicly owned areas of the shoreline.*
6. *Increase recreational opportunities for the public in shoreline jurisdiction.*
7. *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

Uses that are not consistent with these policies should not be permitted on shorelines of statewide significance.

B. Designation of Shorelines of Statewide Significance

Specific waterbodies are classified as shorelines of statewide significance in RCW 90.58.030(2)(f):

1. The area between the OHWM and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets.

In the city, the Pacific Ocean and Grays Harbor and their associated shorelands are defined as shorelines of statewide significance, which are considered resources for all

people of the state. Preference is given to uses that favor long-range goals and support the overall public interest.

C. Policies for Shorelines of Statewide Significance

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the city shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020 and the following policies:

1. Encourage redevelopment of shorelines where it restores or enhances shoreline ecological functions and processes impaired by prior development activities.
2. The city should consult with Ecology, the Washington State Department of Fish and Wildlife (WDFW), the Confederated Tribes of the Chehalis Reservation, and the Quinault Indian Tribe, and other resource agencies for development proposals that could affect anadromous fisheries.
3. Activities that use shoreline resources on a sustained yield or non-consuming basis and that are compatible with other appropriate uses should be given priority over uses not meeting these criteria.
4. The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce, or irreplaceable natural resources should not be permitted if alternative sites are available.
5. Potential short-term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.
6. Protection or enhancement of aesthetic values should be actively promoted in design review of new or expanding development.
7. Resources and ecological systems of shorelines of statewide significance and those limited shorelines containing unique, scarce, and/or sensitive resources should be protected to the maximum extent feasible.
8. Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment control, excavations, land clearing, or other activities likely to result in significant erosion should be severely limited.

9. Public access development in extremely sensitive areas should be restricted or prohibited. All forms of recreation or access development should be designed to protect the resource base upon which such uses in general depend.
10. Public and private developments should be encouraged to provide trails, viewpoints, water access points, and shoreline related recreation opportunities whenever feasible. Such development is recognized as a high priority use.
11. Development not requiring a waterside or shoreline location should be located inland so that lawful public enjoyment of shorelines is enhanced.

1.06.03 OFFICIAL SHORELINE MAP

The City Clerk – Treasurer shall keep the official shoreline map for the city. Unofficial copies of the official map may be included or distributed with copies of the SMP.

1.07 RELATIONSHIP TO OTHER CODES, ORDINANCES, AND PLANS

All applicable local, state, and federal laws shall apply to properties in shoreline jurisdiction. Should a conflict occur between the provisions of the SMP or between the SMP and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by state or federal law, or where specifically provided otherwise in the SMP.

While the city is not subject to all of the requirements of the Washington State Growth Management Act (GMA), it will strive to ensure that there is consistency between the SMP's shoreline environment designation provisions and Comprehensive Plan elements and development regulations.

Ocean uses and activities conducted within the city's and state's jurisdiction shall comply with RCW 43.143 (Ocean Resources Management Act) and WAC 173-26-360 (Ocean Management). Nothing in this paragraph is intended to expand or modify the applicability of RCW 43.143, WAC 173- 26-360, or any subsections thereof, to ocean uses and activities not otherwise governed by those laws, administrative rules, or their subsections.

1.08 LIBERAL CONSTRUCTION

As provided for in RCW 90.58.900, the SMP is exempted from the rule of strict construction and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

1.09 SEVERABILITY

As provided for in RCW 90.58.910, should any section or provision of the SMP be declared invalid, such decision shall not affect the validity of the SMP as a whole.

1.10 TITLE

This document shall be known and may be cited as the *City of Westport Shoreline Master Program* or SMP.

1.11 EFFECTIVE DATE

The SMP is hereby adopted on the 15th date of May, 2017. The SMP and all amendments thereto shall become effective fourteen days from the date of Ecology's written notice of final action to the city.

2 SHORELINE MANAGEMENT GOALS

2.01 SHORELINE MASTER PROGRAM GOALS

The state SMP Guidelines found in WAC 173-26-186(3) require that all relevant policy goals must be addressed in the planning policies of the SMP. This section contains goals that express the long-term vision of the city for its shorelines. Goals provide the basis for the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures in subsequent chapters.

Nine goals relating to shorelines management have been identified: Economic Development, Public Access, Recreation, Circulation, Shoreline Use, Conservation, Historic, Cultural, Scientific, and Educational, Flood Hazard Preservation, and Restoration. In addition, an overall goal for the Grays Harbor Estuary has been adopted through the Grays Harbor Estuary Management Plan (GHEMP). Each is described below.

2.02 ECONOMIC DEVELOPMENT GOAL

Goal ED-1. Provide an area for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, navigation facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the state.

> Maintain and enhance our shoreline-related industry and transportation related facilities such as the Westport Marina in the Westhaven Cove and Municipal Airport. Secure an adequate amount of appropriate shorelines for these industrial and port developments, navigation and transportation facilities, and provide an adequate area for diversified shoreline-related industries as implemented through the city's Comprehensive Plan and facility plans. The city has identified the Marina and airport as important transportation, commercial, and tourist facilities and supports statewide efforts for industrial sites of statewide significance.

2.03 PUBLIC ACCESS GOAL

Goal PA-1. Increase and enhance public access to publicly owned shoreline areas consistent with private rights, public safety, and the natural shoreline character.

Maintain and improve our existing public access to publicly owned shorelines and secure additional access for residential and general public use through land use plans identified in the comprehensive plan and development regulations.

2.04 RECREATION GOAL

Goal REC-1. Provide for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas.

Seek to provide proper recreational opportunities for local citizens to meet local recreational needs. Maintain and enhance our tourism resources, stabilize these resources, and guide resource development such that development enhances rather than detracts. Recreational opportunities, including public access, have been identified in the approved city Parks and Recreation Plan. These areas should be addressed in the review of any project..

2.05 CIRCULATION GOAL

Goal CIR-1. Provide for multi-modal circulation opportunities by planning for the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.

Create and maintain a circulatory network capable of delivering people, goods, and services at the highest level of convenience, safety, reliability, and economy. The secondary effects of circulatory system development must be accounted for in the planning of such systems to avoid undesirable side effects.

2.06 SHORELINE USE GOAL

Goal SU-1. Identify areas associated with the general distribution, location, and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, navigation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.

Promote the best possible pattern of land uses, assure a minimum of conflict between uses, assure that individual uses are placed on sites appropriate to such uses, assure that lands and waters of specific characteristics are available to uses which need such

special types of lands and waters, see that all of the uses needed by the region have a place, generally devise a pattern beneficial to the natural and human environments, and provide reasonable opportunity for residential, tourist, recreation, and water-oriented commercial and industrial uses on the shorelines of the city.

2.07 CONSERVATION GOAL

Goal CONS-1. Preserve natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.

Identify the resources of the region including fish, wildlife, timber, estuaries, shorelines, beaches, scenic areas, critical areas, land, water, and air. The city's development regulations are designed to enhance these goals.

2.08 HISTORIC, CULTURAL, SCIENTIFIC, AND EDUCATIONAL GOAL

Goal HCSE-1. Provide for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

Historic, cultural, scientific, and educational value should be preserved and maintained through park use or historic designation.

2.09 FLOOD HAZARD PREVENTION GOAL

Goal FHP-1. Recognize statewide interests over individual interests in the prevention and minimization of flood damages.

The city participates in the National Flood Insurance Program through the adoption and enforcement of its Flood Hazard Prevention Ordinance, which has been codified in Chapter 15.12 of the Westport Municipal Code (WMC).

2.10 RESTORATION GOAL

Goal REST-1. Encourage restoration of previously degraded areas so that they may be renewed or restored to a natural or useful condition.

Encourage development in areas that have been previously impacted with development so that such areas may be renewed, restored, and refurbished by compatible new development.

2.11 ESTUARY MANAGEMENT GOAL

Goal EST-1. The Grays Harbor estuary will be managed for multiple uses.

3 SHORELINE ENVIRONMENT DESIGNATIONS

3.01 SHORELINE ENVIRONMENT DESIGNATION SYSTEM

The SMA's requirements for shoreline environment designations are found in WAC 173-26-211. The city classified and mapped its shoreline jurisdiction into shoreline environment designations based on the following four criteria found in the state SMP Guidelines (WAC 173-26-211(2)(a)):

A. **Existing land use patterns**. Land uses developed in each of the shoreline areas to date, as documented in the *Shoreline Inventory and Characterization Report* and the SMP map folio.

B. **Biological and physical character of the shoreline**. The range of ecological characteristics and functions identified for each of the shoreline reaches documented in the *Shoreline Inventory and Characterization Report*.

C. **The goals and aspirations of the city as expressed through the its Comprehensive Plan**. The Comprehensive Plan goals and policies, land use designations, various elements that apply to shoreline jurisdiction, including regulations and standards that enact goals and policies.

D. **Specific criteria for each shoreline environment designation.** The specific criteria for the aquatic, high-intensity, shoreline residential, and urban conservancy shoreline environment designations are found in WAC 173-26-211(5). The city may establish different shoreline environment designations, provided they are consistent with the purposes and policies of the state SMP Guidelines.

Based on these four criteria, this chapter establishes the shoreline environment designations used in the city shoreline jurisdiction. Each shoreline environment designation is described by a statement of purpose, followed by designation criteria, and management policies specific to that shoreline environment designation. The locations of the shoreline environment designation are illustrated in SMP Appendix 1: Shoreline Environment Designation Map.

3.01.01 AQUATIC

A. Purpose

The purpose of the Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of shoreline jurisdiction waterward of the OHWM outside of the Westport Marina in the Westhaven Cove.

B. Designation Criteria

Assign the Aquatic shoreline environment designation to lands waterward of the OHWM outside of the Westport Marina.

C. Management Policies

Development within the Aquatic shoreline environment designation shall be consistent with the following policies:

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new over-water structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of over-water facilities to reduce the impacts of development and increase effective use of water resources in shoreline jurisdiction.
4. Minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration in the location and design of all developments and uses.
5. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Prohibit uses that adversely affect the ecological functions of critical saltwater habitats except where necessary to achieve the objectives of RCW 90.58.020, and then only when the impacts are mitigated.
7. Reserve space in shoreline jurisdiction for shoreline preferred uses, including existing shellfish protection districts if applicable, while considering upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access, and views.

3.01.02 MARINA AQUATIC

A. Purpose

The purpose of the Marina Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of shoreline jurisdiction waterward of the OHWM within the Westport Marina in the Westhaven Cove.

B. Designation Criteria

Assign the Marina Aquatic shoreline environment designation to lands waterward of the OHWM that currently support high intensity uses related to the Westport Marina.

C. Management Policies

Development within the Marina Aquatic shoreline environment designation shall be consistent with the following policies:

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new over-water structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of over-water facilities to reduce the impacts of development and increase effective use of water resources in shoreline jurisdiction.
4. Minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration in the location and design of all developments and uses.
5. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Prohibit uses that adversely affect the ecological functions of critical saltwater habitats except where necessary to achieve the objectives of RCW 90.58.020, and then only when the impacts are mitigated.
7. Reserve space in shoreline jurisdiction for shoreline preferred uses, including existing shellfish protection districts if applicable, while considering upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access, and views.

8. All approvals from WDFW and other agencies such as the United States Army Corps of Engineers (USACE) shall be obtained as needed, and projects must comply with the requirements, limitations, and mitigations as required by the reviewing agencies.

3.01.03 HIGH INTENSITY

A. Purpose

The purpose of the High Intensity shoreline environment designation is to provide for high intensity water-oriented commercial, industrial and port, mixed-use, transportation, and navigation uses while protecting existing ecological functions and restoring ecological functions in shoreline jurisdiction that have been degraded.

B. Designation Criteria

1. Assign the High Intensity shoreline environment designation to areas in the shoreline jurisdiction that currently support high intensity uses related to commerce, industry, public facilities, navigation, or transportation, such as the Westport Marina in the Westhaven Cove or airport, or are suitable for high intensity water-oriented uses. Areas of shoreline jurisdiction assigned this designation should have the following characteristics:
    a. Can support high-intensity uses without degradation to existing shoreline function;
    b. Designated by the city's Comprehensive Plan and zoning for high intensity, commercial, industry, public, or mixed-use development; and
    c. Have few biophysical limitations to development such as floodways, floodplains, steep slopes, landslide hazard areas, or areas of shoreline erosion.
2. Allow for non-water-related uses within this designation where water-dependent uses are not possible, such as where there is a developed roadway between the OHWM and the proposed use.

C. Management Policies

Development within the High Intensity shoreline environment designation shall be consistent with the following policies:

1. Prioritize uses on sites with physical access to the water in the following order of preference:
    a. Water-dependent
    b. Water-related

c. Water-enjoyment

2. Allow for non-water-related uses within this designation where there is a developed roadway between the OHWM and the proposed use.
3. Allow the development of new non-water-oriented uses either as part of mixed-use development or where the applicant can demonstrate that the use will not conflict with or limit opportunities for other water-oriented uses.
4. Design new development located in shoreline jurisdiction to result in no net loss of ecological function.
5. Restore and remediate shoreline areas within new development sites consistent with state and federal laws.
6. Require visual and physical access where feasible with physical access prioritized over visual access.
7. Require full use of existing developed lands in the shoreline jurisdiction served by existing or planned infrastructure before expanding intensive development.
8. Recognize the intensely developed areas in and around the Westport Marina and airport, which are considered important industrial, port, and transportation uses.
9. Encourage redevelopment and infill development in previously disturbed areas or in areas with existing infrastructure within and around the Marina while preserving undisturbed areas where possible to reduce impacts.
10. Provide policies for the location and design of improvements at the airport in accordance with the approved Airport Layout Plan.
11. Identify areas appropriate for expansion of commercial, industrial, port, and tourist uses that will avoid impacts or, or with mitigation, result in no irreparable harm to the environment of the shoreline.
12. Allow for structures waterward of the OHWM in the developed portion of the Marina consistent with the policies and standards of the SMP. In-water structures related to boating, port, and water access facilities are addressed in SMP Section 5.07 and in-water structural shoreline modifications are addressed in SMP Section 6.05.

3.01.04 SHORELINE RESIDENTIAL

A. Purpose

The purpose of the Shoreline Residential shoreline environment designation is to accommodate residential development and accessory structures and uses that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational development.

B. Designation Criteria

The Shoreline Residential shoreline environment designation is assigned to the shoreline areas that are predominantly residential or are planned and platted for residential development. These areas contain the following characteristics:

1. They contain existing residential development or are proposed primarily for residential development in Comprehensive Plans and zoning codes; and
2. They do not contain significant environmental hazards or sensitive areas.

C. Management Policies

Development within the Shoreline Residential shoreline environment designation shall be consistent with the following policies:

1. Preserve ecological functions by establishing development standards for height, shoreline buffers, building setbacks, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in shoreline jurisdiction.
2. Provide public access and joint use for community recreational facilities, where feasible and applicable for multifamily developments, residential developments containing more than four lots, and recreational developments.
3. Ensure access, utilities, and public services are available and adequate to serve existing needs or planned future development.
4. Limit commercial development to water-oriented uses. Home occupations consistent with WMC Chapter 17.36.040 are allowed.

3.01.05 URBAN CONSERVANCY

A. Purpose

The Urban Conservancy shoreline environment designation is intended to provide for ecological protection and rehabilitation in relatively undeveloped areas of shoreline

jurisdiction, while allowing water-oriented and non-water-oriented recreational development, low intensity residential development, and limited development suitable to lands characterized by ecological and flood hazard constraints.

B. Designation Criteria

The Urban Conservancy shoreline environment designation is assigned to areas in shoreline jurisdiction that:

1. Are appropriate and planned for low-intensity recreational and residential development that is compatible with maintaining or restoring the ecological functions of the area in shoreline jurisdiction and that are not generally suitable for water-dependent uses;
2. Are suitable for water-related or water-enjoyment uses;
3. Possess development limitations, due to the presence of critical environmental features including:
    a. Erosion hazard areas;
    b. Wetlands;
    c. Flood hazard areas; or
    d. Habitat areas;
4. Have the potential for development that is compatible with ecological restoration;
5. Retain important ecological functions, even though partially developed; or
6. Are undesignated areas.

C. Management Policies

Development within the Urban Conservancy shoreline environment designation shall be consistent with the following policies:

1. Allow uses that preserve the natural character of the shoreline environment designation, promote preservation of open space, floodplain, or critical areas directly, or over the long-term as the primary allowed uses. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and setting.
2. Implement public access and public recreation objectives whenever feasible and significant ecological impacts can be mitigated.

3. Give preferred water-oriented uses priority instead of non-water-oriented uses. Water-dependent and recreational development should be given highest priority.
4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating and water access facilities, angling, and wildlife viewing trails are preferred uses, provided significant adverse impacts to the shoreline are mitigated.
5. Low-intensity residential development when consistent with provisions of the SMP is a preferred use.
6. Ensure that standards for new development for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications do not result in a net loss of ecological functions or degrade other shoreline values.

3.02 INTERPRETATION OF SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

3.02.01 SHORELINE ENVIRONMENT DESIGNATION MAP

Shoreline environment designations are found in SMP Appendix 1: Shoreline Environment Designation Map and are based upon the best data available at the time of the update. As shoreline areas change over time, this map may no longer clearly identify the location and boundaries of the shoreline environment designations. If the need arises to determine the exact boundaries of a shoreline environment designation, the process outlined in SMP Section 3.02.02 below should be used.

3.02.02 DETERMINING SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

A. If the exact location of a shoreline environment designation boundary line is unclear, the following rules shall apply:
    1. Boundaries that are shown as approximately following lot, tract, or section lines shall be so construed.
    2. Boundaries that are shown as approximately following roads shall be respectively construed to follow the nearest right-of-way edge.
    3. Boundaries that are shown as approximately parallel to or extensions of features described in SMP Section 3.02.02(A)(1) or (2), shall be construed to be parallel to or extensions of features in SMP Section 3.02.02(A)(1) or (2) when determining boundaries.

4. Where boundary line adjustments or other modifications not indicated on the official shoreline map involve two or more parcels with different shoreline environment designations, the more restrictive shoreline environment designation shall be assigned as the shoreline environment designation for the subject properties. In the event of a right of way vacation, the designation of the adjacent property should extend to the middle of the vacated right of way. These designations will remain until the shoreline environment designation can be redesignated through the SMP amendment process found in SMP Section 7.09.

B. In the event of a shoreline environment designation mapping error, the Shoreline Administrator shall utilize the criteria contained in RCW 90.58.030(2), Chapter 173-22 WAC, and the common boundary criteria contained in SMP Section 3.02.02(A) to establish the appropriate shoreline environment designation through the SMP amendment process found in SMP Section 7.09.

C. With the exception of the area between the OHWM and the breakwater surrounding the Westport Marina in the Westhaven Cove, which is designated Marina Aquatic, all shoreline areas waterward of the OHWM shall be designated Aquatic. All areas outside of the breakwater surrounding the Marina shall be designated Aquatic. All shoreline areas landward of the OHWM shall be designated a shoreline environment designation other than Aquatic or Marina Aquatic.

D. Only one shoreline environment designation shall apply to a given shoreland area.

E. Unmapped areas of shoreline jurisdiction shall be assigned automatically an Urban Conservancy shoreline environment designation, until that portion of shoreline jurisdiction can be redesignated through the SMP amendment process found in SMP Section 7.09.

4 GENERAL POLICIES & REGULATIONS

4.01 INTRODUCTION

The following general policies and regulations apply to all developments, uses, or activities in any shoreline environment designation in shoreline jurisdiction. The intent of the general policies and regulations is to protect environmental resources, reduce the likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Each section below contains a description of its purpose, followed by policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

The policies and regulations contained in this chapter are derived from the SMA and the state SMP Guidelines. The policies and regulations supplement other adopted ordinances and rules. They are intended to ensure that no net loss occurs. Where there is discrepancy between regulations, those regulations that provide greater protection to shoreline jurisdiction shall apply in accordance with SMP Section 1.07.

4.02 ARCHAEOLOGICAL AND HISTORIC RESOURCES

The purpose of this section is to prevent destruction or damage to sites containing irreplaceable archaeological or historic resources within shoreline jurisdiction. The policies and regulations apply to areas of known or supposed archaeological and historic resources as recorded by the Washington State Department of Archaeology and Historic Preservation (DAHP), the city, affected tribes, as well as sites that are uncovered during site development.

4.02.01 POLICIES

A. Encourage consultation with professional archaeologists and historians to identify areas containing potentially valuable archaeological or historic resources, and establish procedures for salvaging the resource. Appropriate agencies to consult include, but are not limited to, the DAHP, the Confederated Tribes of the Chehalis Reservation, the Shoalwater Bay Tribe, and the Quinault Indian Tribe.

B. Condition shoreline permits to allow for site inspection and evaluation, and ensure proper salvage of archaeological and historic resources in areas known to contain such resources.

C. Preserve archeological or historic sites permanently for scientific study and public observation whenever feasible.

D. Prevent the destruction of or damage to a site that has been inadvertently uncovered and has historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected tribes and the DAHP.

E. Design and operate the proposed development to be compatible with the continued protection of the site, where development or demolition activity is proposed adjacent to an identified archaeological or historic site,.

4.02.02 REGULATIONS

A. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain a historic, cultural, or archaeological resource(s), the city shall require a cultural resource site assessment. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party.

B. Where a professional archaeologist has identified an area or site as having significant value, or where an area or site is listed in local, state, or federal historical registers, the Shoreline Administrator may condition the development approval to preserve the features. Potential conditions may include measures to preserve or retrieve the resources, modify the site development plan to reduce impacts, or mitigate the impacts as authorized through the State Environmental Policy Act (SEPA), or other local, state, or federal laws.

C. The applicant shall stop work immediately and contact the city, the DAHP, and affected tribes if any archaeological resources are uncovered during work within shoreline jurisdiction.

4.03 ENVIRONMENTAL IMPACTS AND MITIGATION

This section addresses the requirements for no net loss of ecological functions in shoreline jurisdiction by requiring mitigation for shoreline impacts. These provisions apply throughout shoreline jurisdiction.

4.03.01 POLICY

A. Avoid or mitigate impacts to shoreline jurisdiction to ensure the standards of no net loss to function are met.

4.03.02 REGULATIONS

A. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or minimized by compliance with the SMP and other applicable regulations.

B. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:

   1. Avoiding the impact altogether by not taking a certain action or parts of an action;
   2. 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;
   3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
   4. Reducing or eliminating the impact over time by preservation and maintenance operations;
   5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
   6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

C. In determining appropriate mitigation measures applicable to development in shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.

D. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in shoreline jurisdiction.

E. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation measures that have been identified within a watershed plan, and address limiting factors or other critical resource conservation needs in shoreline jurisdiction may be authorized. Authorization of compensatory

mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

4.04 CRITICAL AREAS AND SHORELINE VEGETATION CONSERVATION

This section is intended to protect the ecological functions and ecosystem-wide processes performed by critical areas, buffers, and vegetation in shoreline jurisdiction. Within the SMP, buffers for shorelines of the state are considered "shoreline buffers" while the buffers for all other critical areas regulated under SMP Appendix 2: Critical Areas Regulations are called "critical areas buffers." Native vegetation conservation is emphasized within both of the areas. Native vegetation supports many ecological functions or processes in shoreline and critical area buffers, and retaining the vegetation will help the city to meet the SMA goal of no net loss of shoreline ecological functions.

Provisions for shoreline vegetation conservation within this section include regulations regarding plant clearing, vegetation restoration, and the control of invasive weeds and non-native species. These provisions apply to any activity, development, or use in shoreline jurisdiction unless otherwise stated, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. Provisions also apply to vegetation protection and enhancement activities.

SMP Appendix 2: Critical Areas Regulations applies to the management of critical areas in shoreline jurisdiction in the city, including wetlands, critical aquifer recharge areas (CARAs), critical saltwater habitats, frequently flooded areas, landslide hazard areas, erosion hazard areas, seismic hazard areas, and fish and wildlife habitat conservation areas. Exceptions to the applicability of the provisions in SMP Appendix 2: Critical Areas Regulations within shoreline jurisdiction are outlined in SMP Section 4.04.02(A) below.

4.04.01 POLICIES

A. Ensure no net loss of shoreline ecological functions through the effective integration of the SMP with critical areas regulations.

B. Include critical areas objectives in the protection and restoration of degraded ecological functions and ecosystem-wide processes.

C. Balance the various facets of the SMP in critical area regulations, including public access, water-dependent uses, aesthetic considerations, and the maintenance of shoreline ecological functions.

D. Protect and restore ecological functions and ecosystem-wide processes provided by native vegetation along shorelines.

E. Explore opportunities to eliminate non-native vegetation and invasive species and encourage the planting and enhancement of native vegetation within shoreline jurisdiction.

F. Prohibit speculative vegetation removal within shoreline jurisdiction.

G. Replant cleared and disturbed sites promptly after completion of any clearance or construction with native vegetation in those locations where there was previously native vegetation or with other species in those areas previously vegetated with non-native or ornamental species.

H. Allow the selective pruning of trees for safety and view protection unless specifically prohibited in SMP Appendix 2: Critical Areas Regulations.

I. Conduct removal of invasive aquatic vegetation in a manner that minimizes adverse impacts to native plant communities and wildlife habitats, and appropriately handles and disposes of weed materials and attached sediments.

J. Permit clearing of vegetation associated with dike or levee maintenance as necessary to provide protection from flood hazards.

4.04.02 REGULATIONS

A. General Regulations

1. Whether or not a shoreline permit or written statement of exemption is required, the provisions of this section shall apply to all uses, alterations, or developments within shoreline jurisdiction or shoreline buffers. All shoreline uses and activities shall be located, designed, constructed, and managed to protect the ecological functions and ecosystem wide processes provided by critical areas and shoreline vegetation.

2. The critical areas regulations found in SMP Appendix 2: Critical Areas Regulations are integral and applicable to the SMP. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with these regulations.

3. Uses and development may be subject to both shoreline buffers and additional buffers due to presence of wetlands, Type S waters, habitats for federally listed threatened or endangered species, or other critical areas. These additional buffers would be measured from the edge of the critical area and not necessarily added to

the shoreline buffers unless the critical area was adjacent to or contiguous with the shoreline waterbody.

4. If there are any conflicts or unclear distinctions between the provisions of SMP Appendix 2: Critical Areas Regulations and this section, the requirements most consistent with the SMA and most protective of the resource shall apply, as determined by the Shoreline Administrator.
5. Within shoreline jurisdiction, critical area review, approval, notice, and appeal periods/processes shall be integrated with the associated shoreline permit or exemption found in SMP Chapter 7: Shoreline Administration.
6. Within shoreline jurisdiction, applicants seeking relief from the provisions of SMP Appendix 2: Critical Areas Regulations shall apply for a shoreline variance under SMP Section 7.04.03.
7. The provisions of SMP Appendix 2: Critical Areas Regulations do not extend shoreline jurisdiction beyond the limits specified in SMP Section 1.06 Shoreline Jurisdiction.

B. Shoreline Buffer Table

1. The required critical area buffers for waters classified as Type S by WDNR, as established in SMP Appendix 2: Critical Areas Regulations and modified by SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean, shall be considered shoreline buffers.
2. The buffers for all other critical areas shall be established in accordance with the standards found in SMP Appendix 2: Critical Areas Regulations. If buffers for two contiguous critical areas overlap, such as buffers for a shoreline and wetland, the wider buffer shall apply.
3. New uses and development that are not water-dependent, water-related, or water-enjoyment, accessory to water-dependent, water-related, or water-enjoyment uses or development, or that do not facilitate public access to waters of the state generally will not be authorized in shoreline buffers, except those uses and activities allowed in SMP Section 4.04.02(D)(1). Some uses or developments not meeting the criteria above may be authorized through issuance of a shoreline variance.
4. SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean, establishes shoreline buffers by shoreline environment designation.

5. Shoreline buffers are measured landward from the OHWM in a horizontal direction perpendicular to the OHWM.
6. "N/A" in SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean means the requirement is not applicable.
7. Subcategories for types of uses or activities include the following terms:
   a. Water-dependent means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall.
   b. Water-related means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant.
   c. Water-enjoyment means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. Examples include public trails, golf courses, parks, etc.
   d. Non-water-oriented means those uses that are not water-dependent, water-related or water-enjoyment, such as a grocery store, etc.
8. The minimum shoreline buffer from the OHWM for a particular use is determined by finding the use and the most appropriate subcategory row and then finding the intersection with the appropriate shoreline environment designation column.
9. Building setbacks of 15 feet are required from the landward edge of the shoreline buffer. Building setbacks are used to protect the shoreline buffer from disturbance during construction and from the impacts related to use of a structure.

Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel

Standard Shoreline Buffer from the OHWM (1)	High Intensity (2)	Shoreline Residential	Urban Conservancy
Aquaculture			
Water-dependent structures and uses	0 feet	0 feet	0 feet
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet

Standard Shoreline Buffer from the OHWM (1)	High Intensity (2)	Shoreline Residential	Urban Conservancy
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Boating, Port, and Water Access Facilities			
Water-dependent structures and uses	0 feet	0 feet	0 feet
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Commercial Development			
Water-dependent structures and uses	0 feet	N/A	N/A
Water-related and water-enjoyment structures and uses	50 feet	N/A	N/A
Non-water-oriented structures and uses	100 feet	N/A	N/A
Industrial Development			
Water-dependent structures and uses	0 feet	N/A	N/A
Water-related and water-enjoyment structures and uses	50 feet	N/A	N/A
Non-water-oriented structures and uses	100 feet	N/A	N/A
Mining	100 feet	150 feet	200 feet
Parking (accessory to a permitted use only)	100 feet	150 feet	200 feet
Recreational Development (3)			
Water-dependent structures and uses	0 feet	0 feet	0 feet
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Residential Development	100 feet	150 feet	200 feet
Signs (Freestanding Structures)	100 feet	150 feet	200 feet
Transportation Facilities			
Bridges	0 feet	0 feet	0 feet
Expansion of roads with existing right-of-way	(4)	(4)	(4)
New transportation facilities related to permitted shoreline uses	(4)	(4)	(4)
Expansion or relocation of existing transportation facilities	(4)	(4)	(4)
Utilities (Primary)			
Water-dependent structures	0 feet	0 feet	0 feet
Water-related structures	50 feet	75 feet	100 feet
Non-water-oriented structures	(5)	(5)	(5)

Notes:

(1) Reductions in the shoreline buffer from the OHWM may be authorized according to SMP Section 4.04.02(C) below.

(2) All uses that are located next to the Marina Aquatic shoreline environment designation shall have a shoreline buffer of 0 feet. The building setback in SMP Section 4.04.02(B)(9) would not apply.

(3) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures except the following: wildlife viewing structures, permeable trails, or raised boardwalks may be allowed on a limited basis within shoreline and wetland buffers in accordance with the mitigation sequence found in SMP Section 4.03 and the provisions of SMP Appendix 2: Critical Areas Regulations.

(4) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.16.03.

(5) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.17.03.

Table 4-2: Shoreline Buffers – Pacific Ocean

Standard Shoreline Buffer from the OHWM (1)(2)	**Shoreline Residential**	**Urban Conservancy**
Mining	200 feet	200 feet
Parking (accessory to a permitted use only)	200 feet	200 feet
Recreational Development (3)		
Water-dependent structures and uses	0 feet	0 feet
Water-related and water-enjoyment structures and uses	100 feet	100 feet
Non-water-oriented structures and uses	200 feet	200 feet
Residential Development	200 feet	200 feet
Signs (Freestanding Structures)	200 feet	200 feet
Transportation Facilities		
Bridges for motorized and non-motorized uses	0 feet	0 feet
Expansion of roads with existing right-of-way	(4)	(4)
New transportation facilities related to permitted shoreline	(4)	(4)

Standard Shoreline Buffer from the OHWM (1)(2)	Shoreline Residential	Urban Conservancy
uses		
Expansion or relocation of existing transportation facilities	(4)	(4)
Utilities (Primary)		
Water-dependent structures	0 feet	0 feet
Water-related structures	100 feet	100 feet
Non-water-oriented structures	(5)	(5)

Notes:

(1) The shoreline buffer shall be 200 feet landward of the winter marram grass line, except for water-dependent, water-related, or water-enjoyment structures and uses subject to the Dune Protection Zone, as defined in SMP Section 4.05.02(B).

(2) Reductions in the shoreline buffer along the Pacific Ocean from the OHWM are not authorized.

(3) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures except the following: wildlife viewing structures and permeable trails or raised boardwalks may be allowed on a limited basis within shoreline and wetland buffers in accordance with the mitigation sequence found in SMP Section 4.03 and the provisions of SMP Appendix 2: Critical Areas Regulations.

(4) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.16.03.

(5) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.17.03.

C. Standard Shoreline Buffer Width Reduction Options

For shoreline buffers along the Grays Harbor Estuary and Entrance Channel, standard shoreline buffers may be reduced consistent with the mitigation sequence in SMP Section 4.03 and SMP Appendix 2: Section 2.06.08, using the following procedures. Only one buffer width reduction option may be utilized for a development proposal:

1. Shoreline Buffer Averaging

a. The width of a standard shoreline buffer may be averaged, thereby reducing the width of a portion of the shoreline buffer and increasing the width of another portion of the shoreline buffer.

b. A mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E) with shoreline functions substituted for wetland functions. The applicant will need to demonstrate to the satisfaction of the Shoreline Administrator that the following criteria are addressed:

   1) The waterbody and associated shoreline buffer have significant differences in characteristics depending on location that affect its habitat functions;

   2) The shoreline buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the waterbody and decreased adjacent to the lower-functioning or less sensitive portion;

   3) The shoreline buffer averaging does not reduce the ecological functions or values of the waterbody and associated shoreline buffer, or the shoreline buffer averaging, in conjunction with vegetation enhancement, increases ecological functions or values;

   4) The total area of the shoreline buffer after averaging is equal to the area of the required shoreline buffer without averaging and all increases in shoreline buffer dimension for averaging are generally parallel to the OHWM;

   5) The shoreline buffer at its narrowest point is never less than 75% of the required width;

   6) The slopes adjacent to the waterbody within the shoreline buffer area are stable and the gradient does not exceed 30%; and

   7) The applicant implements all feasible measures to reduce the adverse effects of adjacent land uses and ensure no net loss of ecological functions.

2. <u>Shoreline Buffer Width Reduction</u>

   a. The width of a standard shoreline buffer may be reduced up to 25% administratively if shoreline buffer averaging in SMP Section 4.04.02(C)(1) is infeasible. A mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E) with shoreline functions substituted for wetland functions, and the applicant shall demonstrate to the satisfaction of the Shoreline Administrator that:

1) A mitigation plan in accordance with SMP Appendix 2: Section 1.07(E) demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

2) Conditions unique to the site, including legally existing uses, developments established prior to the effective date of the SMP, or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most natural functions from the subject upland property to the waterbody.

3. Common Line Provisions (Applicable to Single-Family Residential Only)

   a. To accommodate adequate shoreline views comparable to adjacent existing residences, the Shoreline Administrator may reduce the standard shoreline buffer for a new single-family residence consistent with the following criteria:

      1) The proposed residence must be located within 150 feet of an adjacent legally established single-family residential primary structure that encroaches on the shoreline buffer. Accessory structures such as sheds or garages shall not be used to determine a common line shoreline buffer.

      2) For the purpose of this reduction, the nearest corners of the adjacent residences are those closest to the side-yard property line of the proposed residence.

      3) Existing Residences on Both Sides: Where there are existing residences adjacent on both sides of the proposed residence, the common line shoreline buffer shall be determined as the greater of either:

         a) A common line drawn between the nearest corners of each adjacent residence, or

         b) A common line calculated by the average of both adjacent residences' existing setbacks from the OHWM.

      4) Existing Residence on One Side: Where there is only one existing residence adjacent to the proposed residence, the common line shoreline buffer shall be determined as the greater of either:

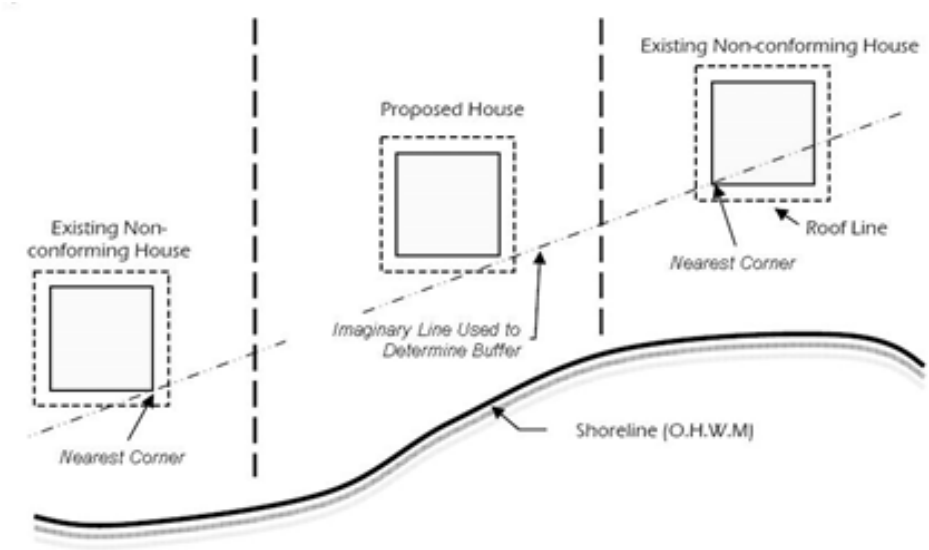
         a) A common line drawn between nearest corner of the foundation for the adjacent residence and the nearest point of the standard shoreline buffer on the adjacent vacant lot; or

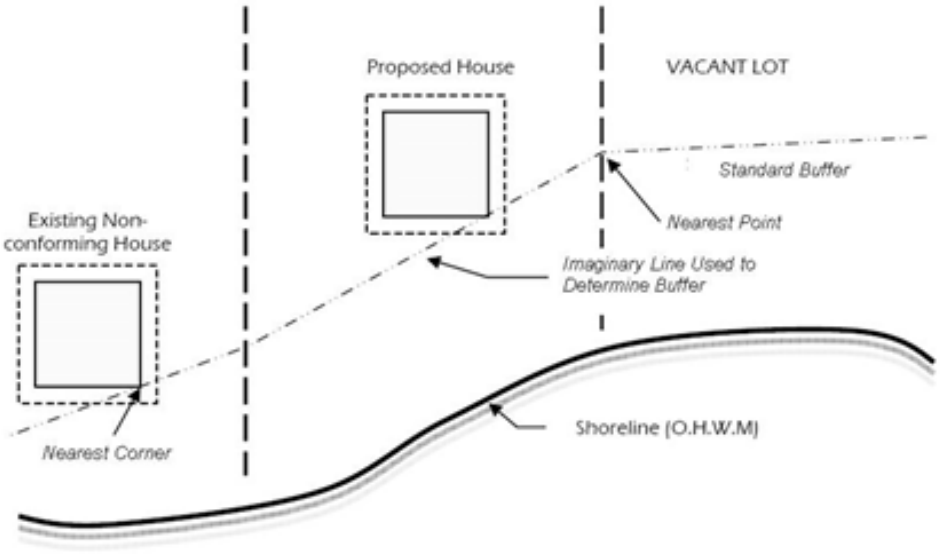
b) A common line calculated by the average of the adjacent residence's setback from the OHWM and the standard shoreline buffer for the adjacent vacant lot.

b. If the conditions in SMP Section 4.04.02(C)(2)(a) are met, the applicant may prepare a mitigation plan as outlined in SMP Appendix 2: Section 2.06.08 with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:

1) A mitigation plan in accordance with SMP Appendix 2: Section 2.06.08 demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

2) Conditions unique to the site, including legally existing uses, developments established prior to the effective date of the SMP, or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most natural functions from the subject upland property to the waterbody.





4. Interrupted Buffer Provisions

   a. The Shoreline Administrator may allow a reduced buffer where a legally established substantial improvement such as a road or structure serves to eliminate or greatly reduce the impact of a proposed activity upon a wetland or shoreline buffer.

   b. Where such a substantial improvement exists, the buffer may be reduced to the waterward edge of the existing substantial improvement.

   c. If a project has the potential to impact the functions of a shoreline or wetland, or its buffer, even though such an improvement exists, the Shoreline Administrator shall require the applicant to submit a critical area report to ensure that no-net loss of shoreline ecological functions will occur.

   d. As used within this section only, substantial improvements shall include developed public infrastructure such as roads and private improvements such as homes or commercial structures. Substantial improvements shall not include paved trails, sidewalks, private driveways, parking areas, or accessory buildings that do not require a building permit.

D. General Buffer Regulations

1. Shoreline Buffers

   The following new uses and activities are allowed within shoreline buffers without a shoreline variance, when located, constructed, and maintained in a manner that

minimizes adverse impacts on shoreline ecological functions, and when otherwise in compliance with this SMP:

a. Uses and activities outlined in SMP Appendix 2: Section 1.05: Allowed Activities, when consistent with all other applicable provisions of the SMP.

b. Accessory Uses. Uses and development accessory to water-dependent uses shall be located outside the shoreline buffer unless at least one of the following criteria is met:

    1) A location in the shoreline buffer is necessary for operation of the primary water-dependent use or development, such as a road to a boat launch facility; or

    2) The accessory use is on legally established public lands and is primarily related to access, enjoyment, and use of the water; and the use does not conflict with or limit opportunities for other water-oriented uses.

c. Essential Public Facilities. Essential public facilities, as defined by RCW 36.70A.200, may be located and expanded in the shoreline buffer if the use cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer.

    1) Proposals for essential public facilities must demonstrate that alternative sites that meet facility requirements are not available.

    2) These uses must be designed and located to minimize intrusion into the shoreline buffer and shall be consistent with the mitigation sequence in SMP Section 4.03 and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

    3) Impacts to the shoreline buffer shall be fully mitigated.

d. Water-oriented education, scientific research, and passive recreational uses. These uses may include, but are not limited to fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling. Such uses are allowed within shoreline buffers provided the use does not include construction except as follows: wildlife viewing structures and permeable trails or raised boardwalks may be allowed within shoreline and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

e. Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests, and other related work, including monitoring of restoration or mitigation sites. In every case, shoreline buffer impacts should be avoided or minimized and disturbed areas shall be immediately restored.

f. Shoreline modifications in conformance with the applicable provisions found in SMP Chapter 6: Shoreline Modification Policies & Regulations.

2. Critical Areas Buffers

The uses and activities allowed within critical areas buffers in SMP Appendix 2: Critical Areas Regulations, may be allowed without a shoreline variance, when located, constructed, and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and in compliance with the SMP.

E. Vegetation Conservation Standards

1. Shoreline buffers protect the ecological functions of the shoreline, help to reduce the impacts of land uses on the waterbody or aquatic resource, and provide a transition between aquatic and upland areas.

2. Authorized uses shall be designed to avoid removing existing native vegetation to the maximum extent feasible within shoreline and critical areas buffers consistent with safe construction practices, and other provisions of this section. Any impacts to existing native vegetation must follow the mitigation sequence in SMP Section 4.03 above and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

3. Removal of vegetation within shoreline and critical areas buffers shall require a critical area report and/or a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Critical Areas Regulations. The Shoreline Administrator may require a critical area report for critical areas regulations exempt activities if necessary to document compliance with the provisions in the SMP.

4. Removal of native vegetation from shoreline buffers must be compensated at a minimum 1:1 ratio, which the Shoreline Administrator may increase if necessary to assure no net loss of shoreline ecological functions. Increases may be necessary to compensate for temporal losses, uncertainty of performance, and differences in ecological functions and values.

5. Mitigation ratios shall be based on a scientifically valid measure of habitat function, value, and area. Critical area reports shall include a description of how the proposal

complies with the mitigation sequence in SMP Section 4.03 and how mitigation areas will be monitored and maintained to ensure no net loss of shoreline ecological functions.

6. Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition. In the context of this regulation, maintenance includes, but is not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas.
7. Clearing of invasive, noxious non-native vegetation in shoreline buffers is allowed by hand labor or with light equipment. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC is allowed in a manner consistent with Washington State Noxious Weed Control Board regulations. Native vegetation shall be promptly reestablished in the disturbed area.
8. In shoreline buffers, pruning shall comply with the National Arborist Association pruning standards. Trees that are felled in shoreline buffers should be left in place. The exception to this regulation is that hazard trees, which are dead, diseased, leaning, or structurally unsound trees that the landowner deems are an emergency, may be removed at any time.
9. As of the date of adoption of this program, there are no state, federal, or other flood hazard agency documents that govern licensed or certified flood hazard reduction measures. However, if such measures are instituted in the future, in those instances where the management of vegetation required by this section conflicts with such documents governing licensed or certified flood hazard reduction measures, the requirements of the SMP will not apply. The applicant shall submit documentation of conflicting provisions with a shoreline permit application and shall comply with all other provisions of the SMP that are not strictly prohibited by certifying or licensing agencies.

F. Revegetation

1. Surfaces that are cleared of vegetation in shoreline or critical area buffers, aside from normal maintenance described in SMP Section 4.04.02(E)(6), and are not developed must be replanted within one year. Replanted areas shall be planted and maintained such that within three years the vegetation cover is at least 90% reestablished. Areas that fail to reestablish vegetation adequately shall be replanted

with approved plant materials until the plantings are viable. Revegetation areas will be maintained in good growing condition, and kept free of noxious weeds, and with removal of dead or dying plants for a five-year monitoring period.

2. Vegetation shall be planted in similar quantities and species to what existed previously on the site to achieve no net loss of ecological function. Disturbed ornamental landscapes, including grass, may be replaced with similar species, unless mitigation is necessary to address project impacts.
3. Native plants are preferred for all revegetation. Non-native species on the Grays Harbor County's list of invasive species shall not be allowed.

G. Aquatic Vegetation Control

1. Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including WDFW requirements such as the Aquatic Plants and Fish Pamphlet, which serves as the Hydraulic Project Approval (HPA) for some types of aquatic weed or plant control and removal.
2. The application of herbicides or pesticides in waterbodies including wetlands or ditches requires a permit from Ecology and may require preparation of a SEPA checklist for review by other agencies. The applicator must have a pesticide applicator license from the Washington State Department of Agriculture.

4.05 DUNE MANAGEMENT

This section applies to dunes associated with the Pacific Ocean from the south jetty in the north to the Westport southern city limit. Dune modification may include the removal or addition of a material to a dune, the reforming, or reconfiguration of a dune, or the removal or addition of vegetation that will alter a dune's shape or sediment migration.

4.05.01 POLICIES

A. Manage dunes to reduce hazards to human life and property from natural or human-induced actions.

B. Provide for diverse and appropriate use of dune areas consistent with their ecological, recreational, aesthetic, and economic values.

4.05.02 REGULATIONS

A. General

1. Dunes in shoreline jurisdiction shall be managed to conserve, protect, develop where appropriate, and restore where suitable the resources and benefits of the beach.
2. Development in dune areas shall be set back according to shoreline environment designation to minimize impacts to natural, functional, ecological, and aesthetic qualities of the dunes. Refer to Table 4-2: Shoreline Buffers – Pacific Ocean in SMP Section 4.04.02(B).
3. The height of development in the dune areas shall be according to Table 5-3: Shoreline Height Limits – Pacific Ocean. Dune modification shall be allowed consistent with state and federal regulations when it will not result in a net loss of shoreline ecological functions.

B. Dune Protection Zone

1. The dune protection zone is located 200 feet landward of the winter marram grass line.
2. The permitted uses in the dune protection zone are public access roads, navigation aids, public recreational buildings, and public or private foot pathways. New shoreline modifications and structures to control erosion are permitted, subject to a conditional use permit. All uses not specifically authorized as a permitted or conditional use shall be prohibited and shall not be authorized.

4.06 FLOOD HAZARD MANAGEMENT

This section applies to actions taken to reduce flood damage or hazards in shoreline jurisdiction as well as uses, development, and shoreline modifications proposed in flood hazard areas. As used by the SMP, “flood hazard management measures” include shoreline modifications that directly control of the location of floodwaters, while “shoreline stabilization measures” act to prevent the erosion of land from currents and waves – a more indirect control of the location of flood and non-flood water. Shoreline stabilization measures are addressed in SMP Chapter 6: Shoreline Modification Policies & Regulations.

Measures to reduce flood hazards may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, use relocation, biotechnical measures, and stormwater management programs; and structural measures, such as dikes, levees,

revetments, floodwalls, dams, and elevation of structures consistent with the National Flood Insurance Program.

The city currently implements flood hazard management through the following:

- The city of Westport Comprehensive Plan;
- WMC Chapter 15.12: Flood Damage Protection;
- The city of Westport Critical Areas Ordinance (CAO);
- The Grays Harbor County Comprehensive Flood Hazard Management Plan; and
- The Grays Harbor County All Hazard Mitigation Plan.

4.06.01 POLICIES

A. Assure flood hazard protection measures do not result in a net loss of shoreline ecological functions.

B. Achieve flood hazard management through a coordinated and integrated approach of plans, regulations, and programs.

C. Prefer nonstructural flood hazard management measures to structural measures where feasible. New structural flood hazard reduction measures should only be allowed when demonstrated to be necessary, nonstructural methods are insufficient, and mitigation is accomplished.

D. Require new publicly funded dike or levee projects to dedicate and improve public access, subject to the exceptions in SMP Section 4.08.

E. Consider removal or relocation of structures in flood-prone areas , where feasible, when evaluating flood control measures where feasible.

4.06.02 REGULATIONS

A. All proposed flood hazard management projects shall comply with WMC Chapter 15.12 Flood Damage Prevention, where applicable.

B. Development in floodplains shall not increase flood hazards.

C. New development in shoreline jurisdiction, including subdivision of land, shall not be allowed when it would be reasonably foreseeable that the development would require structural flood hazard reduction measures.

D. New structural flood hazard management measures may be permitted if:

1. No net loss of ecological functions will occur;

2. A scientific and engineering analysis confirms they are necessary to protect existing development;
3. Nonstructural flood hazard management measures are not feasible; and
4. Appropriate vegetation conservation actions are undertaken as outlined in SMP Section 4.04.

E. If new structural flood hazard management measures are required and no alternative exists, as documented in a geotechnical analysis, the structural measures shall be placed landward of any associated wetlands and shoreline buffer areas except for actions that increase the ecological functions, such as wetland restoration, or if it is determined that no other alternative to reduce flood hazards to existing development is feasible.

F. New publicly-funded structural flood hazard management measures shall dedicate and improve public access except when those improvements would:
1. Cause health or safety hazards or security problems;
2. Result in significant immitigable ecological impacts;
3. Create a conflict of uses; or
4. Cost a disproportionate or unreasonable amount relative to the total long-term cost of the development.

G. Development in the High Velocity (V) zones, as defined in WMC Chapter 15.12 shall not cause a net loss of ecological function and is limited to:
1. Actions that protect or restore ecosystem-wide processes or ecological functions;
2. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in an unreasonable and disproportionate cost;
3. Repair and maintenance of an existing legal use, provided that the repair and maintenance does not cause significant ecological impacts or increase flood hazards to other uses;
4. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition and the measure does not interfere with hydrological and geomorphological processes normally acting in natural conditions.

4.07 OCEAN MANAGEMENT

This section implements the Ocean Resources Management Act, (RCW 43.143.005 – RCW 43.143.030), enacted in 1989 by the Washington State Legislature, and further implemented by WAC 173-26-360. The law requires Ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local SMPs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific Counties.

The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development, and prepare local and state agencies for new ocean developments and activities. These guidelines apply to ocean and marine-based industries and activities within the city's shoreline jurisdiction.

4.07.01 POLICIES

A. Manage use of ocean resources to reduce hazards to human life and property from natural or human-induced actions.

B. Provide for diverse and appropriate use of the ocean consistent with its ecological, recreational, aesthetic, and economic value.

C. Coordinate management of ocean resources with local, state, federal, and tribes.

4.07.02 REGULATIONS

A. Applicability

1. This section is consistent with the purpose and intent of WAC 173-26-360, Ocean Resources, and applies to coastal waters and their adjacent uplands.
2. The applicability of the SMP shall not alter any treaty rights, regulate fisheries, limit recreational use, interfere with the issuance of leases on state-owned aquatic lands, or supersede any other applicable state and federal laws beyond what the scope of the SMA allows.

B. Relationship to Marine Spatial Planning

1. This SMP implements the provisions of WAC 173-26-360 in coordination with marine spatial planning authorized under the Marine Waters Planning and Management Act, Chapter 43.372 RCW.
2. While marine spatial planning is a planning process still underway, the city will strive to consider and integrate informational resources and tools generated through that

process into future amendments of the SMP. This may include evaluating the aquatic shoreline environment designation in the Pacific Ocean to select appropriate environments for ocean resources development that best meets the intent of the SMA, Ocean Resources Management Act (ORMA), and Chapter 173-26 WAC.

C. Permit Criteria

1. Ocean or coastal uses and activities may be permitted as a shoreline substantial development, variance, or conditional use only if the criteria of RCW 43.143.030(2) listed below are met or exceeded:
    a. There is a demonstrated significant local, state, or national need for the proposed use or activity;
    b. There is no reasonable alternative to meet the public need for the proposed use or activity;
    c. There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;
    d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Grays Harbor estuary;
    e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
    f. Compensation is provided to mitigate adverse impacts to coastal resources or uses;
    g. Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and
    h. The use or activity complies with all applicable local, state, and federal laws and regulations.
    i. The procedures for project permit applications for all ocean resources development shall conform to SMP Chapter 7: Shoreline Administration.

D. General Ocean Uses Guidelines

The following guidelines apply to all ocean uses, their service, distribution, and supply activities and their associated facilities that require shoreline permits.

1. Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.
2. Ocean uses that will have less adverse social and economic impacts on coastal uses and communities shall be given priority over uses and activities that will have more such impacts.
3. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster shall be given priority.
4. The alternatives considered to meet a public need for a proposed use shall be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives shall be considered.
5. Chapter 197-11 WAC, the SEPA rules, provides guidance in the application of the permit criteria and guidelines of this section. The range of impacts to be considered shall be consistent with WAC 197-11-060(4)(e) and -792(2)(c). The determination of significant adverse impacts shall be consistent with WAC 197-11-330(3) and -794. The sequence of actions described in WAC 197-11-768 shall be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.
6. Impacts on commercial resources, such as the crab fishery, on non-commercial resources, such as environmentally critical and sensitive habitats and on coastal uses, such as loss of equipment or loss of a fishing season, shall be considered in determining compensation to mitigate adverse environmental, social, and economic impacts to coastal resources and uses.
7. Allocation of compensation to mitigate adverse impacts to coastal resources or uses shall be based on the magnitude and/or degree of impact on the resource, jurisdiction, and use.
8. Rehabilitation plans and bonds prepared for ocean uses shall address the effects of planned and unanticipated closures, completion of the activity, reasonable anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.
9. Ocean uses and their associated coastal or upland facilities shall be located, designed, and operated to prevent, avoid, and minimize adverse impacts on

migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats. Such as areas may include breeding, spawning, nursery, foraging areas, and shorelands, and areas of high productivity for marine biota such as upwelling and estuaries.

10. Ocean uses shall be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, designated recreation areas and the city primary dune system.
11. Ocean uses and their associated facilities shall be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with Chapter 27.34 RCW. Permits in general shall contain special provisions that require permittees to comply with Chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered.
12. Ocean uses and their distribution, service, and supply vessels and aircraft shall be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.
13. Ocean use service, supply, and distribution vessels and aircraft shall be routed to avoid environmentally critical and sensitive habitats, such as sea stacks and shorelands, preserves sanctuaries, bird colonies, and migration routes, during the critical times, those areas or species could be affected.
14. In location and designing associated onshore facilities, special attention shall be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.
15. Ocean use activities in accessory facilities shall be located so they do not obstruct views of navigational aids.
16. Ocean uses and their associated facilities shall be located and designed to minimize impacts on existing water-dependent businesses and existing land transportation routes to the maximum extent feasible.
17. Onshore facilities associated with ocean uses shall be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities shall be located there.

18. Attention shall be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.
19. Special attention shall be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.
20. Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture shall be considered in avoiding and minimizing adverse social and economic impacts.
21. Special attention shall be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution, and contaminated sediments on the marine, estuarine, or upland environment. Such attention shall be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.
22. Pre-project environmental baseline inventories, assessments, and monitoring of ocean uses shall be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses, and coastal communities or the technology involved is likely to change.

E. Allowed Ocean Uses

1. SMP Table 4-3: Allowed Ocean Uses below establishes the ocean management uses and development allowed within the aquatic shoreline environment designation. Where there is a conflict between the table and the written provisions in the SMP, the written provisions shall apply.
2. Authorized uses and development are subject to the policies and regulations of the SMP and are only allowed in shoreline jurisdiction where allowed by the underlying zoning.
3. Uses and development identified as “Permitted” require either a shoreline substantial development permit in accordance with SMP Section 7.04.01 or an exemption from the requirement to obtain such a permit in accordance with SMP Section 7.04.04. If any part of a proposed development is not eligible for an exemption, then a shoreline substantial development permit is required for the entire proposed development.

4. Uses identified as “Conditional” require a shoreline conditional permit pursuant SMP Section 7.04.02. Any use not listed in SMP Table 4-3: Allowed Ocean Uses shall require a shoreline conditional use permit.
5. Uses identified as “Prohibited” are not allowed in shoreline jurisdiction.
6. Accessory uses and structures shall be subject to the same shoreline permit process and SMP provisions as their primary use. An accessory use shall not be established prior to the establishment of its primary use.

Table 4-3: Allowed Ocean Uses

Shoreline Uses (1)	Aquatic
Key: P = Permitted Use, C = Conditional Use, X = Prohibited	
Oil and Gas Development	X
Ocean Energy Development	C
Ocean Mining	C
Ocean Disposal	C
Ocean Transportation	C
Ocean Research (2)	C
Ocean Salvage	C

Notes:

(1) Any use that would substantially degrade the ecological functions of shoreline jurisdiction should not be allowed. In addition, development shall be subject to the allowed uses established by the WMC.

(2) Ocean research requiring the construction of permanent structures requires a conditional use permit.

F. Oil and Gas Development

1. Oil and gas development and activities are prohibited.

G. Ocean Energy Development

1. Ocean energy development means the production of energy in a usable form directly in or on the ocean rather than extracting a raw material for use in producing energy in a readily usable form elsewhere. Ocean energy generation sources may include, but are not limited to, wind, wave, tidal, and ocean thermal energy conversion systems.
2. Ocean energy development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The location, construction, and operation of energy-producing uses shall not create detrimental effects on beach accretion or erosion and wave processes.
4. Project permit applicants for ocean energy development shall prepare assessments that evaluate the effect of energy producing uses on upwelling and other oceanographic and ecosystem processes.
5. Associated energy distribution facilities and lines for ocean energy development shall conform to the provisions of SMP Section 5.17 and locate in existing utility rights-of-way and corridors to the greatest extent feasible, rather than creating new corridors.

H. Ocean Mining

1. Ocean mining development means the extraction of metal, mineral, sand, and gravel resources from the sea floor.
2. Ocean mining development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The location and operation of ocean mining development shall avoid detrimental effects on ground fishing or other renewable resource uses.
4. The location and operation of ocean mining development shall avoid detrimental effects on beach erosion or accretion processes.
5. Project permit applicants for ocean mining development shall provide sufficient analysis by a qualified expert regarding habitat recovery rates for affected sea floor areas.

I. Ocean Disposal

1. Ocean disposal development means the deliberate deposition or release of material at sea, such as solid wastes, industrial wastes, radioactive wastes, incinerator

residues, dredged materials, vessels, aircrafts, ordnance, platforms, or other manmade structures.

2. Ocean disposal development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The storage, loading, transporting, and disposal of materials shall in conform to local, state, and federal requirements for protection of the environment.
4. Ocean disposal shall occur only in sites approved by Ecology, the Washington State Department of Natural Resources (WDNR), the United States Environmental Protection Agency, and the USACE.
5. The location and design of ocean disposal sites shall prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for the primary purpose of habitat enhancement may locate in a wider variety of habitats, but the general intent of the guidelines shall still apply.

J. Ocean Transportation

1. Ocean transportation includes such uses as shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports. The following guidelines address transportation activities that originate or conclude in Washington's coastal waters or are transporting a non-renewable resource extracted from the outer continental shelf off Washington.
2. An assessment shall be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves, and sanctuaries.
3. When feasible, hazardous materials such as oil, gas, explosives, and chemicals shall not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such reasonable route exists, the routes used shall pose the least environmental risk.
4. Transportation uses shall be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserve to the maximum extent feasible.

K. Ocean Research

1. Ocean research activities involve scientific investigation that further knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels, which occur in exploration and ocean uses or developments, a case-by-case determination of the applicable regulations may be necessary.
2. Ocean research shall be encouraged to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.
3. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of Chapter 173-15 WAC – Permits for oil or natural gas exploration activities conducted from state marine waters.
4. Ocean research shall be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.
5. Ocean research shall be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.
6. Public dissemination of ocean research findings shall be encouraged.

L. Ocean Salvage

1. Ocean salvage uses share characteristics of other ocean uses and they involve relatively small sites occurring intermittently. Historic shipwreck salvage, which combines aspects of recreation, exploration, research, and mining, is an example of such a use.
2. Nonemergency marine salvage and historic shipwreck salvage activities shall be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.
3. Nonemergency marine salvage and historic shipwreck salvage activities shall not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

4.08 PUBLIC ACCESS

This section applies to shoreline public access, including the protection of scenic vistas. As provided in WAC 173-26-221(4), public access to the shorelines of the state is the ability of the 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." Allowing for appropriate public access to shorelines of the state is a key component of the SMA. Consideration must be given to protection of the visual quality of the shoreline resource and to maintenance of view corridors to and from the water and adjacent shoreland features.

4.08.01 POLICIES

A. Protect and enhance the public's visual and physical access to shorelines of the state to the greatest extent feasible.

B. Increase the amount and diversity of public access opportunities to shorelines where consistent with the natural shoreline character, property rights, and public safety.

C. Maintain, enhance, and increase public access in accordance with the following priorities unless found infeasible:

   1. Maintain existing public access sites and facilities, rights-of-way, and easements.
   2. Enhance public access opportunities on existing public lands and easements.
   3. Acquire property or easements to add opportunities for public access to shorelines.
   4. Encourage public access to shorelines as part of shoreline development.

D. Ensure shoreline development plans by public entities include public access measures unless it is unsafe, unsecure, or negatively affects the shoreline environment designation.

E. Ensure that development does not impair or detract from public access to the water through standards for design, construction, and operation.

F. Provide public access as close as feasible to the OHWM without adversely affecting a sensitive environment and design with provisions for access for all persons.

G. Development, uses, and activities on or near the shoreline should not impair or detract from the public's visual access to the water.

H. Balance enhancement of views with the protection of shoreline vegetation that may partially impairs views.

I. Maintain, enhance, and preserve visual access of the shoreline from street-ends, public utilities, and rights-of-way.

J. The city's Comprehensive Parks and Recreation plan should consider and identify existing public access points and potential future access points.

4.08.02 REGULATIONS

A. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required.

B. Public access shall be required for the following shoreline developments and uses:

1. Shoreline recreation in accordance with SMP Section 5.13;
2. New structural public flood hazard reduction measures, such as dikes and levees in accordance with SMP Section 4.06;
3. Shoreline development by public entities, including the city, state agencies, and public utility districts; and
4. All other development not subject to the restrictions in SMP Section 4.08.02(C).

C. Public access is not required when any of the following conditions are present:

1. The subdivision of land into four or fewer parcels;
2. A development consisting of a building containing four or fewer dwelling units;
3. Unavoidable health or safety hazards to the public exist that cannot be prevented by any feasible means;
4. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
5. Public access results in significant environmental impacts that cannot be mitigated;
6. Significant undue and unavoidable conflict between any access provisions and the proposed or adjacent uses would occur and cannot be mitigated;
7. The cost of providing the access, easement, or amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
8. Legal limitations preclude public access;
9. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as roads, existing structures, and/or other similar improvements, and public access is not desirable or feasible; or

10. Adequate public access already exists along the subject shoreline and there are no gaps or enhancements that need to be addressed;

D. In addressing SMP Section 4.08.02(C) above, the applicant must demonstrate that all feasible alternatives to allow public access have been exhausted, including:

   1. Regulating access by such means as limiting hours of use to daylight hours;
   2. Separating uses by such means as fences, terracing, landscaping, signage, etc.;
   3. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system; or
   4. Where physical access is not feasible, visual access is provided instead.

E. The Shoreline Administrator must support a determination that no public access is feasible in the findings in the underlying permit.

F. Physical public access shall be designed to connect to existing public rights-of-way or existing or future public access points on adjacent or abutting properties. Appropriate design and safety standards should be utilized in the design of the access.

G. Public access facilities shall be compatible with adjacent private properties using vegetative buffering or other techniques to define the separation between public and private space.

H. Where there is an irreconcilable conflict between water-dependent shoreline uses, physical public access, and maintenance of views from adjacent properties, water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

I. Public access easements or tracts and relevant permit conditions shall be recorded as a separate document or on the face of a plat or short plat with the Grays Harbor County Auditor at the time of permit or plat approval.

J. The applicant shall construct, install, and maintain approved signs that indicate the public's right to access the shoreline and the hours of operation for the shoreline access. These signs shall be placed in conspicuous locations at public access sites. Where public access is prohibited, property owners may install signs subject to size and location restrictions found in SMP Section 5.15 that indicate that no public access is permitted.

K. Required public access sites must be fully developed and available for public use at the time of occupancy or use of the development.

L. The city may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.

M. In addressing the protection of scenic vistas of the shoreline, the following must be taken into consideration:

1. Public lands such as street ends, rights-of-way, and utilities shall provide visual access to the water and shoreline.
2. Development on or over the water shall be constructed as far landward as feasible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

4.09 WATER QUALITY

Prevent impacts to water quality and stormwater quantity that would result in a loss of ecological functions, a significant impact to aesthetic qualities, or recreational opportunities.

4.09.01 POLICIES

1. Protect shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered by the city.
2. Prevent impacts to water quality and stormwater quantity that would result in net loss of shoreline ecological function, significant impacts to aesthetic qualities, or recreational opportunities.

4.09.02 REGULATIONS

1. All development in shoreline jurisdiction shall comply with the appropriate requirements of the SMP and the applicable city stormwater management programs and regulations..

5 SPECIFIC SHORELINE USE POLICIES & REGULATIONS

5.01 INTRODUCTION

Building on the general SMP goals found in SMP Chapter 2: Shoreline Management Goals, this chapter contains specific shoreline use policies and regulations that apply to specific uses or development in any shoreline environment designation. Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

5.02 GENERAL SHORELINE USE

These policies and regulations apply to all developments and uses within shoreline jurisdiction, whether or not a shoreline permit or written letter of exemption is required.

5.02.01 POLICIES

A. Prohibit agricultural, forest practice uses, and parking as a primary use in the city's shoreline jurisdiction.

B. Shorelines are a limited ecological and economic resource. Apply the following priorities in the order presented below when determining allowable uses or resolving use conflicts in shoreline jurisdiction:

1. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health;
2. Reserve shoreline areas for water-dependent and associated water-related uses. Mixed-use developments that include water-dependent uses may be allowed when specific conditions are met;
3. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives;
4. Locate single-family residential uses in the Shoreline Residential shoreline environment designation where they can be developed without significant impact to ecological functions or displacement of water-dependent uses; and

5. Limit non-water-oriented uses to those locations where the uses described above are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA.

C. Locate accessory structures or uses within shoreline jurisdiction, such as parking, service buildings or areas, access roads, utilities, signs, and storage, landward of required shoreline buffers and water-oriented developments or other approved uses.

D. Locate, design, and manage uses and development to minimize impacts through bulk and dimensional regulations, shoreline buffers, and other measures to ensure that the development will not result in a net loss of shoreline ecological functions and in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes.

E. Develop and enforce regulations for shoreline buffers for the purpose of protecting existing ecological functions, accommodating water-oriented and preferred uses, recognizing existing development patterns, and minimizing the creation of nonconforming uses and developments.

F. Do not permit uses where they would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely affect other habitat conservation areas, or interfere with navigation or other water-dependent uses.

G. Avoid adverse impacts to the shoreline or, if that is not feasible, minimize to the extent feasible and mitigate unavoidable impacts.

5.02.02 REGULATIONS

These regulations apply to all developments and uses within shoreline jurisdiction, whether or not a shoreline permit or written letter of exemption is required.

A. Use and development standards shall not apply retroactively to existing, legally established structures, or uses and developments in place at the time of the adoption of the SMP update. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and the shoreline buffers established in the SMP, if the existing use or development does not cease for more than three consecutive years.

B. Development shall comply with the most restrictive bulk and dimensional requirements in WMC Title 17 or SMP Section 4.04.02(B).

C. Shoreline developments shall locate water-oriented portions along the shoreline and place other facilities landward or outside shoreline jurisdiction, where feasible.

D. Accessory uses, such as parking, stormwater management facilities, and utilities shall be located outside of shoreline jurisdiction where feasible. If they are to be located in shoreline jurisdiction, accessory uses shall be limited to water-oriented uses, uses that support physical or visual shoreline access for substantial numbers of the public, or preferred uses in the shoreline.

E. Shoreline uses and developments shall be designed to complement the setting of the property and minimize glare. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible.

F. Agriculture, forest practice uses, and parking as a primary use (see SMP Section 5.12) are prohibited in shoreline jurisdiction.

5.03 ALLOWED SHORELINE USES

A. SMP Table 5-1: Permitted, Conditional, and Prohibited Uses below establishes the uses and development allowed within the shoreline environment designations. Where there is a conflict between the table and the written provisions in the SMP, the written provisions shall apply.

B. Authorized uses and development are subject to the policies and regulations of the SMP and are only allowed in shoreline jurisdiction where allowed by the underlying zoning.

C. Uses and development identified as "Permitted" require either a shoreline substantial development permit in accordance with SMP Section 7.04.01 or an exemption from the requirement to obtain such a permit in accordance with SMP Section 7.04.04. If any part of a proposed development is not eligible for an exemption, then a shoreline substantial development permit is required for the entire proposed development.

D. Uses identified as "Conditional" require a shoreline conditional permit pursuant to SMP Section 7.04.02. Any use not listed in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses shall require a shoreline conditional use permit.

E. Uses identified as "Prohibited" are not allowed in shoreline jurisdiction.

F. Accessory uses and structures shall be subject to the same shoreline permit process and SMP provisions as their primary use. An accessory use shall not be established prior to the establishment of its primary use.

G. See SMP Table 4-3: Allowed Ocean Uses in SMP Section 4.07 for ocean management uses.

Table 5-1: Permitted, Conditional, and Prohibited Uses

Shoreline Uses (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic (3)	Aquatic (3)
Key: P = Permitted Use, C = Conditional Use, X = Prohibited					
Agriculture	X	X	X	X	X
Aquaculture	P	X	X	P	P
Boating, Port, and Water Access Facilities					
Boat Ramps and Launches	P	X	C	P	C (4)
Boat Lifts and Canopies	P	X	X	P	X
Marina (5)	P	X	X	P	X
Marine Terminals and Mooring Structures	P	X	X	P	X
Private Single / Joint-Use Docks and Piers	P	X	X	P	X
Public Piers / Docks	P	X	X	P	C (6)
Commercial Development	P	X	X	X	X
Forest Practices	X	X	X	X	X
Industrial Development	P	X	X	X	X
Mining	P	C	C	X	C (7)
Parking (8)	P	P	P	X	X
Recreational Development (9)					
Water-oriented	P	P	P	P (10)	P (10)
Non-water-oriented	P	P	P	X	X
Trails	P	P	P	X	X
Residential Development (11)(12)	P	P	P	X	X
Signs (Separate Structures)	P	P	P	X	X
Transportation Facilities					
Airports	P	X	X	X	X
Bridges for motorized and non-motorized uses	C	C	C	C	C
Expansion of roads with existing right-of-way	P	P	P	X	X
New transportation facilities related to permitted shoreline uses	P	P	P	X	X
Expansion or relocation of existing transportation facilities	P	C	C	X	X
Utilities (Primary)					

Shoreline Uses (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic (3)	Aquatic (3)
Solid waste disposal or transfer sites	X	X	X	X	X
Other	C	C	C	C	C

Notes:

(1) Any use that would substantially degrade the ecological functions of shoreline jurisdiction should not be allowed. In addition, development shall be subject to the allowed uses established by the WMC.

(2) For uses allowed within the dune protection zone next to the Pacific Ocean, refer to SMP Section 4.05.02.

(3) Where a use would be located both upland and over-water, the more restrictive standards apply.

(4) Only public boat ramps and launches for nonmotorized craft are allowed in the Aquatic shoreline environment designation in the Bayfront reaches. No boat ramps or launches are allowed in Pacific Ocean or Half Moon Bay reaches.

(5) There is no feasible area within the city for the development of a new marina outside of the existing Westport Marina in the Westhaven Cove. No additional marinas shall be allowed in the city.

(6) Only public piers or docks for nonmotorized craft or wildlife viewing are allowed in the Aquatic shoreline environment designation in the Bayfront reaches. Private piers and docks are not allowed outside the Westport Marina. No public piers or docks are allowed in Pacific Ocean or Half Moon Bay reaches.

(7) New mining waterward of the OHWM shall not be permitted unless it meets the requirements of SMP Section 5.11.02(D)

(8) Parking is allowed as an accessory use to an approved use in SMP Section 5.12. Stand-alone parking facilities not supporting an authorized primary use, such as the Westport Marina in the Westhaven Cove, are prohibited in shoreline jurisdiction.

(9) Concession stands, gift shops, and interpretive centers are permitted as accessory uses when limited to serving a related, permitted recreational use in the High Intensity, Shoreline Residential, and Urban Conservancy shoreline environment designations.

(10) Only water-dependent uses are permitted in the Marina Aquatic and Aquatic shoreline environment designations.

(11) Home occupations, as established by WMC 17.36.040, are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.

(12) Vacation rental dwellings, as established by WMC 17.22, are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.

5.04 DEVELOPMENT STANDARDS

The following development standards apply in addition to the buffer and structural setback requirements included in SMP Section 4.04: Critical Areas and Shoreline Vegetation Conservation.

5.04.01 DENSITY AND LOT COVERAGE

A. Density and maximum lot coverage of residential uses allowed in shoreline jurisdiction should be in accordance with the underlying zoning requirements of the WMC.

5.04.02 SHORELINE HEIGHT STANDARDS

A. To limit the obstruction of views from public property or residences, Table 5-2: Shoreline Height Limits – Grays Harbor Estuary and Entrance Channel and Table 5-3: Shoreline Height Limits – Pacific Ocean establish the maximum shoreline height for new or expanded buildings or structures above average grade level in shoreline jurisdiction.

B. The following structures are exempt from the shoreline height standard requirements: shipping cranes or other freight moving equipment, power or light poles, chimneys, tanks, towers, cupolas, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, open railings, and/or similar necessary building appurtenances. These structures may exceed the shoreline height limit provided all other requirements of the city are met and no usable floor space above the shoreline height limit is added.

C. If the height of a development in the High Intensity shoreline environment designations exceeds 35 feet, it may be increased to the underlying zoning district height limit provided the following criteria are addressed:

1. The increase does not substantially block views from upland residential properties as demonstrated by the View Corridor Process in SMP Section 504.02(D);
2. The increase will serve overriding considerations of the public interest pursuant to RCW 90.58.320;
3. Greater height is demonstrated to be needed for an essential element of an allowed use;
4. The project includes compensating elements that substantially enhance the visual and physical public access to the shoreline, if required; and
5. It is demonstrated that no net loss of shoreline ecological function will be achieved.

Table 5-2: Shoreline Height Limits – Grays Harbor Estuary and Entrance Channel

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Shoreline Height (1)	35 feet (2)(3)	35 feet	35 feet	35 feet

Notes:

(1) Single-family residences shall not be constructed over 30 feet in height in the MUTC-1 or MUTC-2.

(2) Maximum shoreline height may be increased to 50 feet in the Mixed-Use Tourist Commercial 2 (MUTC-2) zoning designation and may be increased above 50 feet with approval of a zoning variance and a shoreline variance.

(3) Maximum shoreline height may be increased to 50 feet in the Marine Industrial (MI) zoning designation and may be increased above 50 feet with approval of a zoning variance and shoreline variance and a conditional use permit under WMC Title 17.

Table 5-3: Shoreline Height Limits – Pacific Ocean

Standard	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Shoreline Height	15 feet (1)	15 feet (1)	0 feet

Notes:

(1) Within the Dune Protection Zone, as defined in SMP Section 4.05.02(B), the maximum shoreline height may be increased for navigation aids or public facilities with a shoreline variance, which addresses access, maintenance, and visual impact.

D. View Corridor Review Process

1. The following view analysis standards and procedures apply to the view corridor review process:

   a. The applicant shall prepare a view analysis conducted consistent with the application requirements in SMP Section 7.02.03. The view analysis shall address:

      1) The cumulative view obstruction created by the proposed development combined with other developments that exceed 35 feet in height within a 1,000-foot radius of the proposed development;

      2) Available view corridors;

      3) Surface water views lost, compromised, or retained; and

      4) The applicant shall review the views of a substantial number of residences in the area adjoining the project area and demonstrate through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

   b. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings for all phases.

2. Applicants for new or expanded buildings or structures exceeding 35 feet in height above average grade level in the High Intensity shoreline environment designation shall address impacts to views from substantial numbers of residences and public areas, identified in the view analysis submitted by the applicant as follows:

   a. Site design shall provide for view corridors between buildings using building separation, building setbacks, upper story setbacks, pitched roofs, and other mitigation.

   b. To determine appropriate view corridor location, the Shoreline Administrator shall review shoreline public access plans, location of state or federally

designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies.

c. The maximum width of a view corridor shall not exceed 25% of the lot width.

5.05 AGRICULTURE

New agriculture uses are prohibited in the city's shoreline jurisdiction.

5.06 AQUACULTURE

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals, excluding upland finfish facilities, which are prohibited in the city's shoreline jurisdiction. Aquaculture is a preferred use in shoreline jurisdiction. Locations for aquaculture are relatively restricted due to requirements for water quality, temperature, flows, oxygen content, and adjacent land uses. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.

5.06.01 POLICIES

A. Design, locate, and operate aquaculture uses in a manner that supports the long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes.

B. Aquaculture should not be permitted in locations that would result in a net loss of shoreline ecological functions, adversely affect native eelgrass beds (Zostera marina) and macro algae, or significantly conflict with navigation and other water-dependent uses.

C. Give latitude when implementing regulations for this use, because the technology associated with some forms of aquaculture is in formative stages.

D. Encourage the location of commercial geoduck aquaculture in shoreline areas where sediments, topography, land, and water access supports growing and harvesting activities without significant clearing and grading.

E. Manage the permitting process for new aquaculture activities to minimize application requirements by avoiding redundancy with other state and federal provisions.

F. Protect legally established aquaculture enterprises from incompatible uses that may seek to locate nearby and uses or developments that have a high probability of damaging or destroying the aquaculture operations.

G. Recognize limited availability of suitable locations for aquaculture uses because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, and navigation.

5.06.02 REGULATIONS

A. Applicability

1. Review as part of this SMP is required for all new aquaculture facilities or farms, as well as projects that seek to expand an aquaculture use beyond the area for which a previous permit was issued.
2. Ongoing maintenance, harvest, replanting, or changing of culture techniques or species do not require review under the SMP, unless the proposal introduces new species or culture techniques to Grays Harbor that have significant adverse environmental impacts.
3. A written statement of exemption prepared by the Shoreline Administrator in accordance with SMP Section 7.04.04 is required for all aquaculture activities that are reviewed as part of this SMP, but that do not require a shoreline substantial development permit, conditional use permit, or variance.

B. Location

1. Aquaculture is water-dependent activity that when consistent with control of pollution and prevention of damage to the environment, is a preferred use of water shoreline.
2. Water-dependent portions of aquaculture facilities and their necessary accessories may be located waterward of the OHWM in the Aquatic or Marina Aquatic shoreline environment designations as well as in the shoreline buffer of the High Intensity shoreline environment designation. Water intakes and discharge structures, water and power conveyances, and fish collection and discharge structures are considered water-dependent or accessory to water-dependent facilities.
3. All other elements of aquaculture facilities shall be located outside the shoreline buffer, unless those facilities are deemed water-related and proximity to the water-dependent project elements is critical to implementation of the facility's purpose.

4. Sites shall be selected to avoid or minimize alteration of the shoreline. Applicants for aquaculture operations shall be required to demonstrate that impacts to critical areas and habitats are avoided and minimized consistent with SMP Section 4.04, and impacts on existing public access points, navigable waters, and other water-dependent uses are limited.
5. Aquaculture facilities shall be designed and located so as not to spread disease to native aquatic life, establish new non-native species that cause significant ecological impacts, or significantly affect the aesthetic qualities of the shoreline.

C. General Requirements

1. New aquaculture proposals shall comply with mitigation sequence in SMP Section 4.03. Aquaculture uses that would have a significant adverse impact on natural shoreline processes, result in a net loss of shoreline ecological functions, or significantly conflict with navigation and other water-dependent uses should not be permitted.
2. New aquatic species that were not previously found or cultivated in the shoreline jurisdiction shall not be introduced without prior written approval of the WDFW.
3. Ongoing maintenance, harvest, replanting, changing culture techniques, or species does not require a shoreline permit or exemption unless the proposal introduces a new species or culture technique into Grays Harbor that has significant adverse environmental impacts. Aquaculture areas may lie dormant for multiple years due to a variety of reasons. Dormant areas of aquaculture farms are considered ongoing and not discontinued, and the resumption of active cultivation in such areas shall not be considered an expansion, change, enlargement, or alteration.
4. Dormant areas include property that was acquired under the Bush or Callow Acts of 1895; areas undergoing crop rotation; and areas dormant due to market conditions, seed, or juvenile availability, past and current pest infestations or control issues, water quality issues, and other cultivation factors.
5. No processing of aquaculture products, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing facilities shall be located on land. If within shoreline jurisdiction, such facilities shall be subject to the applicable policies and regulations of SMP Section 5.06 and SMP Section 5.10.

6. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures or equipment shall be removed or repaired promptly by the owner.
7. Aquacultural uses shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated, and maintained to minimize odor and noise.
8. Aquaculture facilities shall not substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated, and maintained to blend into their surroundings.

D. Commercial Geoduck Aquaculture

1. While the city does not currently have commercial geoduck aquaculture operations, new uses shall meet the following provisions:
    a. In addition to the siting provisions of SMP Section 5.06.02(B), commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading;
    b. The planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise;
    c. New commercial geoduck aquaculture shall require a conditional use permit, except where the applicant proposes to convert existing non-geoduck aquaculture to geoduck aquaculture;
    d. All subsequent cycles of planting and harvest shall not require a new conditional use permit;
    e. Conditional use permits for geoduck aquaculture acknowledge operators have a right to harvest geoduck once planted;
    f. A single conditional use permit may substitute for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline aquatic environment;
    g. Applications for a conditional use shall contain the information identified under WAC 173-26-201(b)(iv)(F); and

h. Evaluation of applications for commercial geoduck operations by the Shoreline Administrator shall consider the provisions listed under WAC 173-26-201(b)(iv)(L).

E. Application Requirements

1. Commercial aquaculture shall conform to all applicable state and federal regulations. The city may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements.
2. Additional studies or information may be required by the city, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation and overwater structures.
3. The city shall provide public notice to affected tribes and all property owners within 300 feet of the proposed project boundary.

5.07 BOATING, PORT, AND WATER ACCESS FACILITIES

This section applies to all structures and uses that facilitate water access or the launching or mooring of vessels, including all public and private docks, launch ramps, marinas, piers, and port development. In addition, this section applies to the marine terminals and moorage structures of the Westport Marina in the Westhaven Cove that are operated by the Port of Grays Harbor. There is no feasible area within the city for the development of a new marina outside of the existing Westport Marina in the Westhaven Cove. No additional marinas shall be allowed in the city.

While the construction of new boating, port, and water access facilities is prohibited in the Pacific Ocean and Half Moon Bay shoreline reaches of the city and will likely only occur within the existing Westport Marina, the city allows for public boat ramps, launches, piers and docks for nonmotorized craft and wildlife viewing in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.

5.07.01 POLICIES

A. Recognize there is not sufficient area within the city for the development of a new marina or an expansion of the existing marina beyond its current boundaries. Allow for

the use or modification of the existing marina within its current boundaries in compliance with the goals and policies of the SMP.

B. Recognize that boating, port, and water access facilities are water-dependent uses and should be given priority for shoreline location to facilitate public access.

C. Site, design, construct, and operate new boating, port, and water access facilities to incorporate best management practices (BMPs) and ensure no net loss of shoreline ecological functions.

D. Balance the encouragement of public access and the protection of ecological functions in the construction of new boating, port, and water access facilities.

E. Minimize the amount of shoreline modifications, over-water cover , changes to water circulation and quality, and effects to fish and wildlife habitat from new boating, port, and water access facilities. The length, width, and height of over-water structures should be no greater than that required for safety and feasibility for the primary use.

F. Ensure that new boating, port, and water access facilities do not impact the navigability of the waterbody or adversely affect other water-dependent uses.

G. Plan and coordinate public boating, port, and water access facilities needs regionally. Shorelines particularly suitable for public boat launch facilities are limited and should be identified and reserved on a regional basis.

H. Minimize impacts to adjacent uses and users by locating, designing, constructing, and maintaining new boating facilities, port, and water access facilities to avoid aesthetic impacts to adjacent land uses, and impacts to public visual access to the shoreline. If impact avoidance is not feasible, require mitigation.

I. Protect other water-dependent uses, such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, navigation, and other recreation opportunities, when locating, designing, and operating all boating, port, and water access facilities.

J. Encourage the construction and operation of new nonmotorized boating and water access facilities to allow public access, enjoyment of shorelines, and viewing of wildlife in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.

K. Prohibit the construction of new boating, port, and water access facilities in the Pacific Ocean and Half Moon Bay shoreline reaches of the city.

L. Prohibit new moorage covers, except in limited instances through the shoreline conditional use process.

M. Ensure the designation of sufficient land to accommodate water-oriented port development and plan for port services, such as ferry and cargo handling facilities, within the existing marina footprint and adjacent upland areas.

N. Consider public access and ecological restoration as potential mitigation of impacts to shoreline resources for all water-related and water-dependent port development uses consistent with the regulation of private property.

O. Encourage cooperative use of docking, parking, cargo handling, and storage facilities in waterfront port development areas.

P. Expansion or redevelopment of water-dependent port facilities and areas should be encouraged, provided they result in no net loss of shoreline functions.

Q. Encourage viewing of port development uses from viewpoints, and similar public facilities that do not interfere with operations or endanger public health and safety.

5.07.02 REGULATIONS

A. Location Standards

1. Allow new boating, port, and water access facilities in the Westport Marina where adequate transportation and utility services are available, or can be provided concurrently.
2. New boating, port, and water access facilities shall not be located on the Pacific Ocean and Half Moon Bay.
3. Allow the construction and operation of new nonmotorized boating and water access facilities for public access, enjoyment of shorelines, and viewing of wildlife in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.
4. New boating, port, and water access facilities shall maintain the rights of navigation on the waters of the state.
5. Boating, port, and water access facilities shall be sited and designed to ensure no net loss of shoreline ecological functions.
6. Boating, port, and water access facilities shall meet WDNR requirements and other state guidance if located in or over state-owned aquatic lands.
7. Boating, port, and water access facilities shall be located where:

a. There is adequate water mixing and flushing;

b. Such facilities will not create a flood hazard;

c. Water depths are adequate to minimize spoil disposal, filling, and beach enhancement; and

d. Water depths are adequate to prevent the facility from grounding out at the lowest low water or the facility includes stoppers to prevent grounding.

8. Boating, port, and water access facilities shall not be located :

   a. Where new dredging or new ongoing maintenance dredging will be required solely for creating a new facility. This requirement does not prohibit the siting of new boating facilities in locations where maintenance dredging activities occurs to support another existing use;

   b. In areas with important habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates; or

   c. In areas where it would be incompatible with the need to protect the public health, safety, and welfare.

9. Boating, port, and water access facilities shall be designed to ensure that lawfully existing or planned public shoreline access is not blocked, obstructed, or made dangerous.

B. General Design Standards for Boating, Port, and Water Access Facilities

1. Boating, port, and water access facilities shall be designed and operated to avoid or minimize impacts. Unavoidable impacts must be mitigated consistent with the mitigation sequence in SMP Section 4.03 and critical areas in SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

2. All boating, port, and water access facilities and shoreline modifications to support these uses shall be the minimum size necessary to accommodate the anticipated demand for the facility.

3. Boating, port, and water access facilities shall be designed to provide physical or visual public access to the shoreline for as many water-oriented recreational uses as feasible, commensurate with the scale of the proposal, including, but not limited to, physical and visual access to waterbodies, public piers, or fishing platforms.

4. Project applicants shall comply with all local and state policies and regulations, including all applicable health, safety, and welfare requirements associated with the

primary or accessory use. These standards include but are not limited to WDNR and WDFW standards and regulations including Hydraulic Code Rules (Chapter 220-660 WAC).

5. All boating or water access facilities shall be constructed and maintained in a safe condition. Abandoned or unsafe boating or water access facilities shall be removed or repaired promptly by the owner.
6. Wooden components of boating or water access facilities that will be in contact with water or installed over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Boating or water access facilities shall be made out of materials that have been approved by applicable state and federal agencies.
7. Lighting associated with boating or water access facilities shall be shielded to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.
8. Boating or water access facilities must be limited to vessel moorage only. No live-aboard vessels or floating homes are allowed.
9. Upland boat storage may be allowed within the shoreline jurisdiction provided impermeable surface limitations and other standards are met, mitigation sequencing is followed, and impacts can be mitigated to achieve no net loss.

C. Supplementary Standards for Boat Ramps and Launches

1. New boat ramps and launches shall follow BMPs and the standards in WAC 220-660-150 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. Boat ramps and launches may be permitted for public boating and water access and recreational uses subject to SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.
3. Boat ramps and launches shall be sited to minimize impacts to aquatic and upland wildlife habitats, native emergent vegetation, water quality, and navigation. All facilities shall be sited and designed per required mitigation sequencing.
4. Boat ramps and launches shall be located where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.

5. The design of boat ramps and launches shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
6. The applicant shall demonstrate that the proposed length of a boat ramp or launch is the minimum necessary to launch the intended craft safely.
7. Boat ramps and launches shall be designed and constructed using methods and technology recognized and approved by state and federal resource agencies as BMPs.

D. Supplementary Standards for Docks and Piers

1. New docks and piers shall follow BMPs and the standards in WAC 220-660-380 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. New docks and piers shall be allowed only for public access and water-dependent uses so long as they comply with the regulations contained in this section. Docks and piers shall meet the following standards:
    a. New docks and piers shall be permitted only when they are intended for commercial, industrial, port, public access, or public access use in the Westport Marina or public use outside of the marina.
    b. No more than one dock or pier is allowed for a water-dependent use.
3. The maximum dimensions of a dock or pier shall be no greater than necessary and shall generally meet the following development standards. An explanation of why the dock or pier length was chosen must be submitted with the application.
    a. Docks and piers for commercial, industrial, port, public access, or public access use in the Westport Marina may be up to eight feet in width and shall not exceed 200 feet beyond the OHWM.
    b. Proposed docks and piers that do not comply with the dimensional standards above may only be approved if they obtain a shoreline variance. Pursuant to WAC 173-27-040(2)(b), any existing legal nonconforming dock or pier may be repaired or restored to its original size, dimension, and location without the need for a variance, if it is below the replacement thresholds found in SMP Section 5.07.02(F)(1). Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.

E. Supplementary Standards for Port Development

1. Water-dependent port uses shall have shoreline location priority over all other uses in the High Intensity shoreline environment designation.
2. The location, design, and construction of port development shall result no net loss of ecological functions or have significant negative impacts to shoreline use, resources, navigation, recreation, and public access.
3. Public access should be incorporated where feasible. Public access shall be required where feasible for new port development on publicly owned land and does not interfere with operations, violate federal security regulations, or endanger public health and safety.
4. Maintenance, expansion, or reconfiguration of the existing docks, floats, and boat launch facility within the boundaries of the existing Marina, or the existing parking and fishing equipment storage yards in the adjacent uplands, while subject to the requirements of the use and development standards included in the SMP, are not considered an expansion of the existing Westport Marina that would require bringing the rest of the Marina into compliance.
5. Port development shall comply with all local, state, and federal requirements regarding air and water quality.
6. BMPs shall be strictly adhered to for facilities, vessels, and products used in association with port development.
7. All port developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any pollution, which they cause.
8. Procedures for handling toxic materials in shoreline areas shall prevent their entering the air or water.
9. Accessory development, which does not require a shoreline location, shall be located upland of the water-dependent portions of the development and set back from the OHWM as set forth in the shoreline environment designation.
10. All new or expanded upland port development shall be set back and buffered from adjacent shoreline properties, which are used for non-industrial or port development purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect shorelines and such other properties from visual or noise intrusion, minimize erosion, and protect water quality. New or expanded port development shall be set back and buffered from the shoreline except those water-

dependent portions of the development, which require direct access to the water, or shoreline and any adverse impacts are minimized.

11. Buffers shall not be used for storage of port equipment or materials, or for waste disposal, but may be used for outdoor recreation if consistent with public access and other provisions of the SMP.

F. Existing Uses and Structures

1. Replacement

    a. If the replacement of 50% or more of the boating, port, and water access facility occurs as part of a project, it is considered a new facility and must be designed consistent with any applicable standards for new boating, port, and water access facilities.

    b. Outside of the Westport Marina only those portions of the facility that extends beyond the boundary of the original facility require mitigation under SMP Section 5.07.02(G).

2. Modification or Enlargement

    a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.

    b. Enlarged portions of boating, port, and water access facilities must comply with any applicable design and mitigation standards for new facilities.

3. Repair

    a. Repairs to existing legally established boating, port, and water access facilities that fall below the standards identified in SMP Section 5.07.02(F)(1) are permitted consistent with all other applicable codes and regulations.

    b. All repairs must utilize any material standards specified for new facilities.

G. Mitigation

1. Outside the footprint of the existing Westport Marina, new or expanded boating, port, and water access facilities should follow the mitigation sequence in SMP Section 4.03.

2. For new development of boat ramps and launches for nonmotorized craft outside the footprint of the existing Marina, appropriate compensatory mitigation may include items including but not limited to, one or more of the following measures:

a. Removal of any legal existing overwater or in-water structures that are not the subject of the application or otherwise required to be removed;

b. Removal or ecological improvement of hardened shoreline, including existing launch ramps or structural shoreline stabilization;

c. Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, remnant docks, or other material detrimental to ecological functions and ecosystem-wide processes; or

d. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.

H. Application Requirements

In addition to the general application requirements, the following submittals, as applicable, are necessary for all new boating, port, and water access facilities:

1. A description of the proposed boating, port, and water access facility, including its size, location, design, and any shoreline stabilization or other modification measures;
2. The ownership of the property and aquatic lands;
3. Habitat surveys and critical area studies consistent with SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.
4. Assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
5. A mitigation plan for unavoidable adverse impacts to ecological functions or processes shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).
6. A slope bathymetry map when deemed beneficial by the Shoreline Administrator.
7. An assessment of existing water-dependent uses in the vicinity and documentation of potential impacts to those uses and mitigating measures.

5.08 COMMERCIAL DEVELOPMENT

Commercial uses and developments are those uses that are involved in wholesale and retail trade or business activities. Many commercial developments are intensive users of space because of extensive floor areas and facilities, such as parking, necessary to service them.

5.08.01 POLICIES

A. Encourage the development of water-oriented commercial developments, which utilize their location to offer opportunities for substantial numbers of people to enjoy the shoreline.

B. Encourage new commercial development along shorelines to locate in areas where current commercial uses exist, if the locations are suitable for such use.

C. Encourage non-water-oriented commercial development to locate outside of the shoreline jurisdiction.

D. Design new commercial development to protect the public's health, safety, and welfare; provide public access where feasible; and ensure no net loss of shoreline ecological functions.

E. Minimize the adverse impacts that may result from commercial buildings, such as blocked views, aesthetic impacts, or noise.

F. Recognize the benefit to users of the shorelines of the existing Westport Marina in the Westhaven Cove related commercial development, which is located in the Mixed Use Tourist Commercial (MUTC) and Marine Industrial (MI) zoning districts adjacent to the existing Marina and allow similar development and uses to continue.

5.08.02 REGULATIONS

A. Commercial development shall not result in a net loss of shoreline ecological functions or have significant negative impacts to shoreline uses, resources, and values such as navigation, recreation, and public access.

B. New non-water-oriented commercial development is prohibited in shoreline jurisdiction unless it meets one of the following criteria:

   1. The commercial use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;

2. Navigability is severely limited at that location and the commercial use provides a significant public benefit such as public access or ecological restoration; or
3. The commercial use is physically separated from the shoreline by another property or public right of way.

C. Non-water-dependent commercial uses over water are prohibited in the shoreline jurisdiction except in existing structures or where necessary in support of water-dependent uses.

D. Marina related commercial development and uses that support the existing Westport Marina shall be considered water-oriented water-related or water-enjoyment uses.

5.09 FOREST PRACTICES

Forest practices are prohibited in the city's shoreline jurisdiction.

5.10 INDUSTRIAL DEVELOPMENT

In applying the policies and regulations of this section, industrial development means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of goods and materials is considered industrial development.

Industrial developments are often associated with other uses and modifications that are identified separately in the SMP, such as parking. Every use and type of shoreline modification should be identified and reviewed for compliance with all applicable sections.

Industrial development is intensive and has the potential to impact the shoreline environment designation. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological function necessary to sustain shoreline resources.

5.10.01 POLICIES

A. Ensure the designation of sufficient land to accommodate water-oriented industrial development.

B. Encourage new industrial development to locate where environmental clean-up and restoration can be incorporated.

C. Locate, design, and construct new industrial development to assure no net loss of shoreline ecological functions and to limit adverse impacts to other shoreline resources and values.

D. Consider public access and ecological restoration as potential mitigation of impacts to shoreline resources for all water-related and water-dependent industrial uses consistent with the regulation of private property.

E. Encourage cooperative use of parking and storage facilities in waterfront industrial areas.

F. Expansion or redevelopment of water-dependent industrial facilities and areas should be encouraged, provided it results in no net loss of shoreline functions.

G. Locate future non-water-dependent industry in areas away from the shoreline.

5.10.02 REGULATIONS

A. Water-dependent and then water-related industrial uses shall have shoreline location priority over all other uses in the High Intensity shoreline environment designation.

B. The location, design, and construction of industrial development shall result no net loss of ecological functions or have significant negative impacts to shoreline use, resources, recreation, and public access.

C. Non-water-oriented uses are prohibited in shoreline jurisdiction unless they meet one of the following criteria:

1. It is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;
2. Navigability is severely limited on the site and the industrial use provides a significant public benefit of providing public access or ecological restoration; or
3. The site is physically separated from the shoreline by another property or public right of way.

D. Industrial uses that support the Westport Marina in Westhaven Cove shall be considered water-oriented water-related or water-enjoyment uses.

E. Public access should be incorporated where feasible. Public access shall be required where feasible for new industrial development on publicly owned land and does not interfere with operations, violate federal security regulations, or endanger public health and safety.

F. Industrial development shall comply with all local, state, and federal requirements regarding air and water quality.

G. All developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any pollution, which they cause.

H. Procedures for handling toxic materials in shoreline areas shall prevent their entering the air or water.

I. Accessory development, which does not require a shoreline location, shall be located upland of the water-dependent portions of the development and set back from the OHWM as set forth in the High Intensity shoreline environment designation.

J. All new or expanded upland industrial development shall be set back and buffered from adjacent shoreline properties, which are used for non-industrial purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect shorelines and such other properties from visual or noise intrusion, minimize erosion, and protect water quality. New or expanded industrial development shall be set back and buffered from the shoreline except those water-dependent portions of the development, which require direct access to the water, or shoreline and any adverse impacts are minimized.

K. Buffers shall not be used for storage of industrial equipment or materials, or for waste disposal, but may be used for outdoor recreation if consistent with public access and other provisions of the SMP.

5.11 MINING

Mining is the removal of sand, soil, gravel, minerals, and other materials for commercial and other uses. Mining in the shoreline can alter the natural character, resources, and ecology of shorelines. Mining in the city has been traditionally limited to sand removal at ocean beach approaches, and the USACE South Jetty Maintenance Stockpile located in Half Moon Bay.

5.11.01 POLICIES

A. Design and conduct new mining and associated uses to result in no net loss of shoreline ecological functions and processes.

B. Minimize the impacts of mining, such as aesthetics, dust, noise, etc., on existing public access points and water-dependent or enjoyment uses.

C. Do not locate new mining on shorelines where unavoidable adverse impacts on other users or resources taken together, equal or outweigh the benefits from mining.

D. Begin land reclamation immediately after the termination of mining operations. Use of reclaimed mine property must be consistent with the SMP and provide appropriate ecological functions consistent with the location and Washington State Surface Mining Reclamation Act requirements.

5.11.02 REGULATIONS

A. New mining waterward of the OHWM of a shoreline waterbody shall not be permitted unless:

1. Removal of specified quantities of sand and gravel or other materials is proposed at precise locations, which will not adversely affect the natural processes of gravel transportation in the waterbody as a whole;
2. The mining and associated permitted uses will not have significant adverse impacts on habitat for priority species or cause a net loss of shoreline ecological functions;
3. Such uses will not increase the flooding of flood hazard areas or threaten public or private properties; and
4. A shoreline conditional use permit is obtained.

B. Mining operations and subsequent uses shall not cause permanent impairment or loss of floodwater storage, wetlands, or other features and habitats. Mitigation shall provide for the replacement of impacted functions necessary to achieve no net loss of ecological function.

C. Application for mining permits mining shall be accompanied by operation plans, reclamation plans, and an analysis of environmental impacts sufficient to make a determination as to whether the project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation.

D. The evaluation of impacts of mining shall be integrated with relevant environment review requirements of SEPA (Chapter 43.21 RCW) and SEPA rules (Chapter 197-11 WAC).

E. In considering renewal, extension, or reauthorization of mining waterward of the OHWM in locations where mining was previously conducted, compliance with SMP Section 5.11.02(D) shall be required where no such review has previously been conducted. Where there has been a prior review of the mining activities, the Shoreline Administrator shall review the previous determinations to assure compliance under current site conditions.

F. For mining proposals that meet the definition of surface mine in RCW 78.44.031, the proposal shall be consistent with WDNR Surface Mine Reclamation standards found in Chapter 332-18 WAC and Chapter 78.44 RCW. A reclamation plan that complies with the format and standards of Chapter 78.44 RCW shall be included with a shoreline permit application.

G. In reviewing the permit application and reclamation plan, the Shoreline Administrator shall determine whether the plan is consistent with the SMP and other applicable local regulations. After the applicant has been given reasonable opportunity to revise the plan, an inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit. Subsequent use of reclaimed sites shall be consistent with the shoreline environment designation and the use criteria provisions of the SMP.

5.12 PARKING

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply to parking that is allowed as an accessory to a permitted shoreline use. Stand-alone parking facilities are prohibited in shoreline jurisdiction. Parking facilities supporting the Westport Marina in the Westhaven Cove are considered accessory parking facilities.

5.12.01 POLICIES

A. Minimize the amount of parking in the shoreline jurisdiction.

B. Locate and design parking facilities to have the least impact on shoreline features, including shoreline ecological functions and existing or planned water-dependent uses.

C. Locate and design parking to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, vegetation, and habitat.

5.12.02 REGULATIONS

A. Parking facilities are allowed only as an accessory to an authorized shoreline use. Stand-alone parking facilities not supporting an authorized primary use, such as the Westport Marina, are prohibited in shoreline jurisdiction.

B. Parking facilities serving individual buildings in shoreline jurisdiction shall be located upland from the principal structure being served, except in the following cases:

1. When parking facilities are within or beneath the structure and adequately screened.
2. Where the existing configuration of a commercial or industrial building has parking situated between the structure and the shoreline. No expansion of the parking area towards the water shall be allowed.
3. When parking to address specific Americans with Disabilities Act of 1990 requirements is required and cannot be placed in another location.

C. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent and abutting properties shoreline jurisdiction.

D. Existing parking areas that are of a non-paved surface, such as gravel, may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements and regulations. Paved parking areas shall be designed to incorporate LID practices, such as permeable surfaces and bioswales, to the extent feasible.

5.13 RECREATIONAL DEVELOPMENT

Recreational development includes commercial and public facilities that provide recreational opportunities to the public. This section applies to public and private recreational uses and development, accessory recreational uses and development, and excludes private recreational uses associated with residential development.

5.13.01 POLICIES

A. Prevent recreational development from causing a net loss of shoreline ecological functions.

B. Encourage the development of recreational facilities that allow the public to access and enjoy shorelines.

C. Create new public access points to shorelines on public lands.

D. Promote the ongoing maintenance of shoreline public access.

E. Work to link shoreline parks and public access points.

F. Protect the rights of private property owners, and help to minimize adverse impacts on private land associated with neighboring public access points.

G. Ensure sufficient water and wastewater facilities are available to accommodate the demands of recreational development proposals.

H. Encourage preservation of scenic views and vistas.

5.13.02 REGULATIONS

A. Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

B. Recreational uses and facilities proposed within the shoreline jurisdiction shall be primarily designed to promote access, enjoyment, and use of the water and shorelines of the state. Non-water-related recreational uses shall predominantly be located outside of the shoreline jurisdiction.

C. Where recreation facilities include overwater structures designed for public access to shorelines, such as public viewing or fishing platforms, the structures shall comply with the relevant requirements of SMP Section 5.07.

D. Applicant shall submit plans that demonstrate the BMPs and methods to be used to prevent chemical applications and resultant leachate from entering adjacent waterbodies.

E. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to minimize impacts to neighbors and prevent the overflow of pedestrians onto adjacent private properties.

F. Wildlife viewing structures and permeable trails or raised boardwalks are allowed within shoreline buffers in accordance with the mitigation sequence in SMP Section 4.03 and the critical area regulations in SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

G. Trails shall be planted or landscaped to provide a visual buffer for adjoining dissimilar uses or scenic areas. The Shoreline Administrator may condition proposals to:

   1. Select species that are suitable for the local climate and have minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and

   2. Incorporate native species.

H. Recreational development proposals shall include facilities for water supply, wastewater, and garbage disposal in conformance with city standards.

I. In addition to these standards, commercial recreational development shall be consistent with the provisions for commercial development in SMP Section 5.08.

5.14 RESIDENTIAL DEVELOPMENT

Residential development includes single-family residences, multifamily development, and appurtenant structures and uses, including garages, sheds, fences, necessary utilities, and driveways, and the creation of new residential lots through land division. Single-family residences are a priority use when developed in a manner consistent with no net loss of environmental functions.

The construction of a single-family residence by an owner, lessee, or contract purchaser for their own use or for the use of their family that does not exceed a height of 35 feet above average grade level may be exempt from the requirement for a shoreline substantial development permit but must be consistent with all applicable policies and regulations in the SMP. Refer to the application and interpretation of exemptions in WAC 173-27-040(2)(g).

5.14.01 POLICIES

A. Develop residential uses in a manner that ensures no net loss of shoreline ecological functions and is consistent with provisions relating to shoreline buffer areas, shoreline armoring, vegetation conservation requirements, and aesthetic enhancement.

B. Control residential uses and development in areas subject to environmental limitations, such as wetlands and areas of frequent flooding.

C. Set back residential development and uses from steep slopes and shorelines vulnerable to erosion so that structural shoreline stabilization or flood hazard reduction measures are not required to protect such structures.

D. Prohibit new overwater residential development.

E. Encourage public access to the shoreline as part of new residential development, and require public access in accordance with SMP Section 4.08 for new multifamily residential development and subdivisions that include more than four parcels.

F. Consider single-family residences a priority use in planning for uses in the shoreline jurisdiction when developed with no net loss of ecological functions.

G. Consider accessory uses such as driveways, utilities, and other appurtenances as part of the primary residential use and review under the standards of this section.

5.14.02 REGULATIONS

A. Residential uses and development may be allowed in conformance with the city's development requirements and the provisions of the SMP.

B. Residential subdivisions shall:

1. Comply with all applicable subdivision, critical areas, and zoning regulations including Title 14 WMC.

2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities, and other support facilities in conformance with city standards.

3. Be designed, configured, and developed to:

a. Assure that no net loss of ecological functions will result from the initial division of the land, at full build-out of all the lots, and throughout all phases of development.

b. Avoid critical areas and their buffers in accordance with SMP Section 4.03.

c. Prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures in accordance with SMP Section 6.07 and SMP Section 4.06.

d. Minimize physical impacts to vegetation and other natural features within the shoreline.

e. Assure that lots in proposed subdivisions are sufficiently sized and oriented to allow future residential development, without these residential uses requiring a shoreline variance. Lot configurations shall plan for building sites outside of required shoreline and critical area buffers.

4. Clustering may be permitted, as allowed by the WMC, to achieve these provisions.

C. Each residential structure, including accessory and appurtenant structures and uses, shall:

1. Comply with all applicable zoning regulations.

2. Meet all applicable critical areas, vegetation conservation, and water quality standards of SMP Chapter 4: General Policies & Regulations.

3. Be designed, sited, and constructed to:

a. Assure no net loss of shoreline ecological functions.

b. Prevent the need for new structural flood hazard management measures to the greatest extent feasible.

c. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion, in accordance with the required critical area and shoreline buffers, to ensure that structural improvements and stabilization structures are not necessary to protect such structures and uses.

D. New multifamily developments and subdivisions over four lots in size shall provide public access under SMP Section 4.08.

E. The primary residential use on any lot shall be established prior to any accessory residential uses. Accessory and appurtenant uses and structures not specifically addressed in the SMP shall be subject to the same regulations as the primary residence.

F. Primary residential uses are prohibited over the water.

G. Residential accessory and appurtenant structures and uses shall be prohibited waterward of the OHWM, unless clearly water-dependent.

H. Residential appurtenant and accessory structures or uses are prohibited within shoreline buffers unless specifically authorized in SMP Section 4.04 or SMP Appendix 2: Critical Areas Regulations.

5.15 SIGNS

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment.

5.15.01 POLICIES

A. Limit off-premise outdoor advertising signs within shoreline environment designations.

B. Ensure that signs are sized and placed to protect vistas and viewpoints of shorelines, waterbodies, and surrounding landscapes from public properties and rights of way.

5.15.02 REGULATIONS

A. Signs shall comply with the applicable city regulations.

B. All signs shall be located and designed to minimize interference with visual access to shoreline jurisdiction.

C. Signs may be allowed if they:

1. Do not obstruct sight distance of drivers and non-motorized roadway users;

2. Conform with Washington State Department of Transportation (WSDOT) standards for signs on public highways; and
3. Meet one of the following two conditions:
    a. Are official in nature, such as traffic control, wayfinding, monument, historic, or cultural site markers, etc., and are located within the public right-of-way; or
    b. Are located on the public or private property that contains the use advertised.

5.16 TRANSPORTATION FACILITIES

Transportation facilities include structures that provide for the movement of people, goods, and services by land, air, and water. Transportation facilities include public and private highways, bridges, bikeways, airports, and other related facilities. This section applies to new and expanded transportation facilities within shoreline jurisdiction. A driveway for an individual single-family residence is considered part of the primary use and it should be reviewed as part of SMP Section 5.14.

5.16.01 POLICIES

A. Plan, locate, and design new transportation facilities or the expansion of existing facilities where they will have the least adverse effect on shoreline features, shoreline ecological functions, and existing or planned water-dependent uses, and impacts can be adequately mitigated.

B. Maintain and reconstruct roads in accordance with the BMPs adopted by the city and WSDOT.

C. Require that public and private developments provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities in a manner consistent with city, state, and federal standards and adopted levels of service.

D. Preserve the aesthetic values of the shoreline along roadways.

E. Promote the creation and upkeep of viewpoints, rest areas, and picnic areas that are located along transportation facilities in the shoreline jurisdiction.

F. Seek to provide for safe pedestrian and non-motorized travel along scenic corridors, public roadways, and multi-use trails in the shoreline jurisdiction.

G. Design road structures so that flood debris will not be trapped by the structure.

5.16.02 REGULATIONS

A. Transportation facilities shall only be placed within shoreline jurisdiction, when no other reasonable option for the location of the facility exists. If no reasonable alternative exists to placing a new transportation facility or expanding an existing facility in shoreline jurisdiction, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

B. When located within shoreline jurisdiction, new and expanded transportation facilities shall:

   1. Be set back from the OHWM as far as feasible and locate any new water crossings as near to perpendicular with the waterbody as feasible, unless an alternate path would minimize the disturbance of native vegetation or result in the avoidance of critical areas;

   2. Be designed with the minimum pavement area required;

   3. Minimize adverse effects on unique or fragile shoreline features;

   4. Implement the mitigation sequence in SMP Section 4.03 and ensure no net loss of shoreline ecological functions;

   5. Avoid adverse impacts on existing or planned water-dependent uses;

   6. Allow joint use of the right-of-way with non-motorized uses and existing or planned primary utility facilities to consolidate the crossings of waterbodies and minimize adverse impacts to shoreline jurisdiction, where feasible; and

   7. Provide and maintain visual access to scenic vistas on public roads, where feasible. Visual access may include, but is not limited to turnouts, rest areas, and picnic areas.

C. Existing roads that are of a non-paved surface, such as gravel, may be paved if the facilities comply with all applicable mitigation, water quality, stormwater, and landscaping standards, as well as other requirements of the SMP and local regulations.

D. Seasonal work windows may be required for construction projects to minimize impacts to shoreline functions.

E. Where public access to shorelines across transportation facilities is intended, facility designs must provide safe pedestrian and non-motorized vehicular crossings.

F. Crossings of waterbodies, such as bridges, shall be designed to minimize impact to aquatic habitat, allow for fish passage, and the passage of flood debris.

G. Improvements or expansion of the existing airport consistent with an approved airport layout plan are allowed within the High Intensity shoreline environment designation and adjacent Aquatic shoreline environment designations subject to approval of permits as indicated in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.

5.17 UTILITIES

The provisions of this section apply only to public and private facilities that produce, convey, store, or process power, gas, sewage, communications, oil, or waste. On-site utility features serving a primary use, such as an electrical line or water, sewer or gas lines to an individual use, are considered accessory utilities and shall be considered under the standards of the primary use of the property. Water intake and water or fish conveyances between a waterbody and an aquaculture facility are not considered utilities under this section of the SMP. Consult SMP Section 5.06.

5.17.01 POLICIES

A. Ensure that the installation of new utilities results in no net loss of shoreline ecological functions.

B. Locate utility lines and facilities outside of the shoreline jurisdiction where feasible.

C. Locate water-oriented utilities, such as sewage treatment, water reclamation, and some power facilities, where they do not interfere with other public uses of the water and shoreline.

D. Locate and design utilities to accommodate future growth and development.

E. Locate utilities so as not to obstruct or destroy scenic views wherever facilities must be placed in a shoreline area. Place utility lines underground when feasible to minimize damage to the shoreline aesthetic quality.

F. Locate utilities in existing rights of way or corridors whenever feasible.

G. Restore shoreline areas damaged by the installation or maintenance of utilities.

H. Provide public access to the shoreline whenever a major utility line or facility utilizes a shoreline location or crossing, unless the utility presents a serious hazard to the public.

5.17.02 REGULATIONS

A. All utility system projects and maintenance shall be designed, located, and installed in a manner, which results in no net loss of ecological function.

B. Water-oriented utilities are allowed in the shoreline jurisdiction.

C. If a utility is required to be sited in shoreline jurisdiction, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

D. Where utilities must be located in shoreline jurisdiction, the utilities must:

   1. Be designed and constructed to meet all adopted engineering standards.

   2. Provide for compatible, multiple use sites, and rights-of-way whenever feasible. Compatible uses include shoreline access points, trails, and other forms of recreation and transportation, provided these uses do not interfere with utility operation, endanger public health and safety, or cause a significant and disproportionate liability for the owner.

   3. Minimize processes affecting the rate of shoreline erosion. Where this may occur, the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.

   4. Limit clearing to the minimum necessary for installation or maintenance. Impacts associated with removal of vegetation or clearing shall be mitigated on site.

E. In addition to the standards above, utility lines within the shoreline jurisdiction shall:

   1. Be undergrounded, except where technical, environmental, or geological conditions make undergrounding infeasible.

   2. Be sited within the footprint of an existing right-of-way or utility easement, wherever feasible in locations where right-of-ways and easements exist.

   3. Avoid paralleling the shoreline except where located in an existing road or easement footprint.

F. If an underwater location is necessary for the siting of utilities, the following performance standards apply:

   1. The design, installation, and operation shall minimize impacts to the waterway and the resident aquatic ecosystems.

   2. Seasonal work windows may be made a condition of approval.

3. All state and federal permits must be obtained.
4. A maintenance schedule and emergency repair protocol shall be prepared and recorded.

G. After the installation of a utility system or the completion of a maintenance project, the disturbed area shall be regraded to match the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting the standards of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

6 SHORELINE MODIFICATION POLICIES & REGULATIONS

6.01 INTRODUCTION

This chapter contains specific shoreline modifications policies and regulations that apply to those activities that modify the physical form of the shoreline in any shoreline environment designation. By definition, shoreline modifications activities are undertaken in support of or in preparation for a permitted shoreline use. A single permitted use may require several different shoreline modifications.

Shoreline modification activities include the construction of in-water structures, overwater structures and launching facilities, and shoreline stabilization measures, as well as actions such as clearing, grading, and fill, and dredging and dredge material disposal. At a minimum, shoreline modification policies and regulations are intended to assure no net loss of the ecological functions necessary to sustain shoreline natural resources.

Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

6.01.01 SHORELINE MODIFICATION TABLE

SMP Table 6-1: Shoreline Modifications establish what specific shoreline modification activities are allowed within each of the shoreline environment designations. Shoreline modification activities may be permitted, allowed with a conditional use permit, or not applicable to a shoreline environment designation. Refer to individual standards in this chapter for a full explanation of modifications and required conditions for permitted uses.

Table 6-1: Shoreline Modifications

Shoreline Modifications (1)(2)	**High Intensity**	**Shoreline Residential**	**Urban Conservancy**	**Marina Aquatic**	**Aquatic**
Key: P = Permitted Use, C = Conditional Use, N/A = Not Applicable					
Clearing and Grading	P	P	P	N/A	N/A

Shoreline Modifications (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic	Aquatic
Fill					
Fill Landward of OHWM	P	P	P	N/A	N/A
Fill Waterward of OHWM	N/A	N/A	N/A	C	C
Dredging and Dredge Material Disposal	C	C	C	C (3)	C (3)
In-Water Structure Shoreline Modifications(4)	N/A	N/A	N/A	C	C
Restoration (5)	P	P	P	P	P
Shoreline Stabilization					
Hard Shoreline Stabilization Measures	P	P	C	C	C
Soft Shoreline Stabilization Measures	P	P	P	C	C

Notes:

(1) In the event of a conflict between SMP Table 6-1: Shoreline Modifications and the regulatory text, the text shall hold.

(2) In the shoreline environment designations where these activities are allowed, fill waterward of the OHWM and dredging are only permitted in limited situations. See SMP Sections 6.03 and 6.04 for requirements.

(3) Maintenance dredging of established navigation channels and basins is exempt in accordance with and as provided for in SMP Section 6.04.02(A)(2)(f).

(4) All in-water structures require a shoreline conditional use permit, except when such structures are installed to protect or restore ecological functions. In such cases, it would be considered a permitted shoreline modification.

(5) Exemptions from shoreline permitting are available for certain restoration activities as outlined in WAC 173-27-040(2)(o) and WAC 173-27-040(2)(p). Projects are still required to comply with the SMP.

6.02 GENERAL SHORELINE MODIFICATION PROVISIONS

The following provisions apply to all shoreline modification activities, whether shoreline modifications address a single or multiple properties. Where other requirements may conflict with the provisions contained in this chapter, the more restrictive standard shall apply.

6.02.01 POLICIES

A. Ensure shoreline modifications individually and cumulatively do not result in a net loss of ecological functions.

B. Limit the number and extent of shoreline modification activities to reduce the negative effects of shoreline modifications to the greatest extent feasible.

C. Plan for enhancement of impaired ecological functions where it is feasible, appropriate, and accommodates permitted uses.

D. Allow only shoreline modifications that are appropriate to the specific shoreline environmental designation in which they are located.

E. Prefer those types of shoreline modifications that have a lesser impact on ecological functions. Promote soft over hard shoreline modification measures.

6.02.02 REGULATIONS

A. Structural shoreline modifications shall be allowed if they are demonstrated to be necessary to support or protect a legally permitted shoreline structure or use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement.

B. Shoreline modifications shall be limited in number and extent.

C. The Shoreline Administrator shall base all decisions regarding shoreline modification on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant.

D. Shoreline modifications must be designed and located to ensure that they will not result in a net loss of shoreline ecological functions or will not have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.

E. Shoreline modifications and uses shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

F. Shoreline modifications standards shall not apply retroactively to existing, legally established shoreline modifications. Existing structures may be maintained, repaired, and operated within shoreline jurisdiction and within the shoreline buffers established in the SMP. Repair and replacement provisions in later sections of this chapter may apply to specific modifications.

G. All disturbed areas shall be restored and protected from erosion by using native vegetation or other approved means.

H. All shoreline modifications are subject to the mitigation sequence in SMP Section 4.03, with appropriate mitigation required for unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

6.03 CLEARING, GRADING, AND FILL

Clearing, grading, and fill are the activities associated with preparing a site for development, as well as physically altering topography. The clearing and grading regulations in this section apply to activities landward of the OHWM and fill activity applies both waterward and landward of the OHWM.

See SMP Section 6.04 for dredging for purposes of flood control, navigation, primary utility installation, the construction of water-dependent portions of essential public facilities, or restoration.

6.03.01 POLICIES

A. Protect shoreline ecological functions by regulating clearing, grading, and fill.

B. Permit clearing, grading, and fill only to the minimum extent necessary to accommodate an approved shoreline use or development and with no net loss of shoreline ecological functions and processes.

C. Require that BMPs be utilized during clearing, grading, and fill activity.

D. Allow clearing, grading, and fill only as part of a permitted development in shoreline jurisdiction.

E. Permit clearing, grading, and fill associated with dike, levee, or jetty maintenance as necessary to provide protection from flood hazards when consistent with the flood hazard management provisions in SMP Section 4.06.

F. Ensure that the placement of fill does not result in a loss of flood storage.

G. Encourage the enhancement and voluntary restoration of landforms for habitat along shorelines.

6.03.02 REGULATIONS

A. All clearing, grading, and fill shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

B. Clearing, grading, and fill shall be minimized to the extent feasible and only allowed when necessary to accommodate an approved shoreline use or development.

C. Speculative clearing, grading, and fill are prohibited.

D. When clearing, grading, or fill causes adverse impacts to ecological functions, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

E. Clearing, grading, and fill within wetlands or floodways and fill waterward of the OHWM is only allowed when:

   1. Due consideration has been given to the site specific conditions;

   2. All impacts have been mitigated;

   3. All required state and federal permits have been obtained; and

   4. The shoreline use or development is one of the following:

      a. A water-dependent use or public access to the shoreline;

      b. The clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan;

      c. The disposal of dredged material considered suitable under, and conducted in accordance with, the WDNR's Dredged Material Management Program and the USACE Dredged Material Management Office. See also SMP Section 6.04;

      d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline jurisdiction, where alternatives to fill are infeasible;

      e. Expansion or alteration of the existing airport consistent with an approved airport plan, when demonstrated that there are no feasible alternatives to fill, and the impacts are minimized to greatest extent feasible and are adequately mitigated.

      f. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or

      g. The protection of historic or cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such fill must be coordinated with any affected tribes and comply with applicable provisions of SMP Section 4.02.

F. All fill waterward of the OHWM that is not associated with an ecological restoration project shall require a shoreline conditional use permit.

G. Upland clearing, grading and fill outside of wetlands and floodways is permitted provided it:

   1. Is the minimum necessary to implement the approved use or modification;

   2. Does not significantly change the topography of the landscape in a manner that affects hydrology or increases the risk of slope failure, consistent with the applicable provisions of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations; and

   3. Is conducted outside required shoreline buffers, unless specifically authorized by the SMP, or is necessary to provide protection to historic or cultural resources.

H. Grading, fill, and beach nourishment shall be designed to blend physically and visually with the existing topography whenever feasible, so as not to interfere with lawful access and enjoyment of scenery.

I. Clearing, grading, and fill shall not be located where shoreline stabilization will be necessary to protect the materials placed or removed, except when part of an approved plan for protection of historic or cultural resources.

J. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided that demonstrates the stability of a steeper slope.

K. A temporary erosion and sediment control plan, including BMPs, consistent with the city's stormwater manual, shall be submitted to and approved by the Shoreline Administrator prior to commencement of all clearing, grading, and fill activities.

L. To prevent a loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway per SMP Section 4.06.

M. Fill on state-owned aquatic lands must comply with WDNR and WDFW standards and regulations.

6.04 DREDGING AND DREDGE MATERIAL DISPOSAL

This section is intended to cover dredging and dredge material disposal. It is not intended to cover mining or other excavations waterward of the OHWM that are incidental to construction of an authorized use or modification such as bulkhead replacements, boat launch ramp installation, or pile placement. These in-water substrate modifications should be conducted in accordance with all applicable regulations for the proposed use found in the SMP.

6.04.01 POLICIES

A. Conduct dredging in a manner that utilizes mitigation sequencing and ensures no net loss of shoreline ecological functions.

B. Allow dredging for navigation channels, marine terminal berths, and mooring structures when needed to assure safe and efficient accommodation of existing navigational uses, only when significant ecological impacts are minimized and mitigated.

C. Restrict maintenance dredging of established navigation channels, basins, and marine terminal berths to maintaining previously dredged or existing locations to their authorized depths and widths.

D. Permit dredging as part of restoration or enhancement, public access, flood storage as part of a flood hazard management program, or navigation if deemed consistent with the SMP.

E. Prohibit dredging waterward of the OHWM to obtain fill except when the dredge material is necessary for the restoration of shoreline ecological functions.

F. Site new development to avoid the need for new and maintenance dredging. Where avoidance is not feasible, ensure the site is designed to minimize the need for dredging.

G. Prefer the disposal of dredged material on land outside of the shoreline jurisdiction to open water disposal. Where in water disposal is the established method, such as for channel maintenance dredging, projects should consider the beneficial use of materials where possible. The city should work with state and federal regulatory agencies to identify and implement beneficial use activities and projects utilizing dredge material disposal.

H. Coordinate local, state, and federal permit requirements for dredging.

6.04.02 REGULATIONS

A. Dredging

1. Dredging and dredge disposal proposals shall utilize the mitigation sequence in SMP Section 4.03. Where adverse impacts are unavoidable, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

2. Dredging shall only be permitted for the following activities:

    a. Development of new or expanded moorages or water-dependent industrial or port uses where there are no other feasible alternatives, significant ecological impacts are minimized, and mitigation is provided.

b. Development of essential public facilities where no feasible alternative location exists.

c. Restoration or enhancement of shoreline ecological functions and processes that benefit water quality or fish and wildlife habitat.

d. Trenching to allow the installation of underground utilities, if no feasible alternative location for the utilities exists, and:

   1) Impacts to fish and wildlife habitat are minimized to the maximum extent feasible; and

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

e. Establishment, expansion, relocation, or reconfiguration of navigation channels where necessary to assure the safe and efficient accommodation of existing navigational uses.

f. Maintenance dredging of established navigation channels and basins, including the existing Westport Marina basin in the Westhaven Cove, so long as the dredging is restricted to the previously dredged or authorized location, depth, and width. Such dredging shall be considered an exempt activity so long as it meets the requirements of SMP Section 7.04.04.

g. Flood hazard reduction.

3. Applicants must receive all applicable state and federal permits prior to the commencement of any dredging.

4. Dredging shall be prohibited for the primary purpose of obtaining fill material, except when necessary for the restoration of shoreline ecological functions and consistent with the following:

   a. Dredge material must be placed waterward of the OHWM.

   b. The project must be associated with either a MTCA or CERCLA habitat restoration project or, if the project is approved through a shoreline conditional use permit, the project may be another significant habitat enhancement project.

5. New development shall be sited and designed to avoid or minimize the need for new or maintenance dredging.

B. Dredge Material Disposal

1. Dredge material disposal within shoreline jurisdiction may be permitted as long as:

a. Shoreline ecological functions and processes will be preserved, restored, or enhanced. Factors to consider include surface and groundwater protection, erosion, sedimentation, and the impacts of floodwaters or run-off; and

b. The disposal will not negatively affect public or private property.

2. Dredge material disposal in open waters may be approved when authorized by the Dredge Material Management Office or other applicable state and federal agencies, which may include the USACE in accordance with Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and WDFW HPA; and when one of the following conditions apply:

   a. Open water disposal at an approved USACE or WDNR disposal site is the common method for disposal of maintenance dredge materials from navigation channels and basins; or

   b. If applicable, the use of dredge material to benefit shoreline resources shall be addressed through the implementation of a regional interagency dredge material management plan or watershed plan.

3. All dredge material disposal on state-owned aquatic lands must comply with WDNR and WDFW standards and regulations.

4. For structure and dredging projects related to the USACE navigation channel and Port of Grays Harbor Westport Marina features, upland disposal of material in the USACE designated stockpile located near Half Moon Bay is allowed if approved by the appropriate regulatory agencies.

C. Submittal Requirements

1. A detailed description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of the SMP shall be required for all dredging applications. Materials prepared for federal or state permits such as an HPA may be used to support the analysis.

6.05 IN-WATER STRUCTURE SHORELINE MODIFICATIONS

This section applies to in-water structures, such as breakwaters, jetties, dams, groins, and weirs that are built by humans and located waterward of the OHWM. This section does not apply to public and private docks, launch ramps, marinas, piers, and port development that facilitate

water access, the launching or mooring of vessels, or marine terminals and moorage structures, which are regulated in SMP Section 5.07.

6.05.01 POLICIES

A. Design in-water structures to be compatible with the long-term use of resources, such as public access, recreation, and fish migration.

B. Locate, design, construct, and maintain in-water structures to give due consideration to:

   1. The full range of public interests;

   2. Watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes;

   3. Scenic vistas;

   4. Historic and cultural resources; and

   5. Ecological functions, with special emphasis on protecting and restoring priority habitats and species.

C. Site and design in-water structures to be consistent with appropriate engineering principles, including guidelines of the WDFW, Natural Resources Conservation Service, and the USACE.

D. Encourage non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions as an alternative to in-water structures.

E. Incorporate native vegetation as part of the design of in-water structure to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management.

F. Incorporate applicable watershed, surface water management, and restoration plans in the planning and design of in-water structures.

G. Consider alternatives to hard in-water structures, such as soft in-water structures or several smaller discontinuous structures, as part of an application where physical conditions make such alternatives with less impact feasible.

H. Require a shoreline conditional use permit for dams, weirs, and similar structures, except for those structures installed to protect or restore ecological functions, such as woody debris, engineered logjams, or habitat-forming rock weirs.

I. Only allow groins and weirs to be placed waterward of the OHWM in limited instances.

6.05.02 REGULATIONS

A. In-water structures shall require a shoreline conditional use permit, except for those structures installed to protect or restore ecological functions.

B. In-water structures shall be designed, constructed, and maintained to ensure no net loss of shoreline ecological functions.

C. A professional engineer licensed in the state shall certify the designs of all in-water structures and include a monitoring and maintenance schedule.

D. Appropriate engineering principles and BMPs, including guidelines of the WDFW, NRCS, and the USACE, shall be used in the design of in-water structures. WDFW's Integrated Streambank Protection Guidelines may be used for BMPs for in-water structures.

E. The mitigation sequence in SMP Section 4.03 shall be required, with mitigation required for all unavoidable impacts to ecological functions. If critical areas in the shoreline jurisdiction are impacted, the project is subject to SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

F. Projects involving in-water work may not commence without having obtained all applicable local, state, and federal permits and approvals.

G. If at any time, because of in-water work, fish are observed to be in distress or water quality problems develop, immediate notification shall be made to the appropriate state or federal agencies, including Ecology, WDFW, National Marine Fisheries Service, or United States Fish and Wildlife Service.

H. Alteration or disturbance of the bank and bank vegetation shall be limited to the minimum necessary to perform the in-water work. All disturbed areas shall be protected from erosion and be restored using vegetation or other means.

I. Waste material resulting from in-water structure installation and removal shall be deposited in an approved upland disposal site outside of the shoreline jurisdiction unless the applicant can demonstrate in-water disposal is the preferred method for the shoreline location and in-water disposal has been approved in accordance with SMP Section 6.04.

J. Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless removal is approved by WDFW.

K. Motor vehicles, appliances, or other solid waste shall not be used as in-water structures. Demolition debris that is non-toxic, non-chemically contaminating, reclaimed materials may be used.

L. In-water structures designed by public entities shall include public access under SMP Section 4.08 whenever feasible. At a minimum, in-water structures should not decrease public access or the use potential of shorelines unless it is demonstrated the only feasible design for the in-water structure requires decreasing public access to prevent the loss of shoreline or habitat.

M. In-water structures and uses shall be sited and designed to avoid the need for future shoreline stabilization and dredging.

N. New, expanded, or replacement in-water structures shall only be permitted if it can be demonstrated that:

1. The proposed structure utilizes BMPs and will not result in a net loss of shoreline ecological functions;
2. The proposed in-water structure supports water-dependent uses, public access, shoreline stabilization, shoreline restoration, or some other specific public purpose; and
3. The benefits to the region outweigh the short and long-term resource losses from such work.

6.06 RESTORATION

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 shall be considered under this section.

6.06.01 POLICIES

A. Use principles of landscape and conservation ecology to design restoration and enhancement actions and improve shoreline ecological functions and processes. Consider the restoration of ecosystem-wide physical and biological processes that affect shoreline habitat structure and functions as the primary goal of these actions.

B. Encourage cooperative shoreline restoration and enhancement programs between local, State, and Federal agencies, tribes, nonprofit organizations, and landowners to improve impaired ecological functions.

C. Target restoration and enhancement projects that support the life cycles of priority species, such as Chinook salmon and other anadromous fish; locally important plants, fish and wildlife; and other populations or habitats for which a prioritized restoration or recovery plan is available.

D. Encourage restoration and enhancement projects by developing project permitting and processing guidelines that streamline permit review.

E. Seek and support funding opportunities to implement restoration and enhancement projects.

F. Encourage restoration and enhancement projects by developing project permitting and processing guidelines that will streamline their review.

G. Avoid adverse impacts to critical areas, fish and wildlife habitat conservation areas, water quality, and water storage capacity in all shoreline restoration and enhancement projects.

6.06.02 REGULATIONS

A. The Shoreline Restoration Plan identifies potential restoration priorities and projects in shoreline areas throughout the city. The plan may be used as a guide for shoreline restoration and enhancement projects.

B. Where the Shoreline Restoration Plan is not used in the creation of a proposed restoration or enhancement project, the Shoreline Administrator shall review the proposal to assure that the project addresses legitimate restoration needs and priorities.

C. All shoreline restoration and enhancement projects shall be designed and implemented by qualified professionals using best available science (BAS) and best management practices (BMPs).

D. Shoreline restoration and enhancement projects shall protect the integrity of onsite and adjacent natural resources, including aquatic and terrestrial habitats, processes, and properties.

E. Shoreline restoration and enhancement projects shall demonstrate that no significant change to current, sediment transport, or water quality will result from the project.

F. Restoration and enhancement projects shall be designed, maintained, and monitored to ensure long-term success. Measures to ensure the success of the project shall be identified by a qualified professional in any plan or details submitted for the project. Monitoring periods should generally not be less than three years.

G. Shoreline restoration and enhancement efforts shall not significantly interfere with the normal public use of the navigable waters of the State without appropriate mitigation. For projects on State-owned aquatic lands, project proponents must coordinate with the WDNR to ensure the project will be appropriately located, prior to the solicitation of permits from regulatory agencies.

H. Shoreline restoration and ecological enhancement projects are permitted in all shoreline environment designations provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.

I. In accordance with RCW 90.58.580, a shoreline substantial development permit may not be required for development within the city on land that is brought under shoreline jurisdiction due to a shoreline restoration project that causes or would cause a landward shift in the OHWM. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of Ecology.

6.07 SHORELINE STABILIZATION

Shoreline stabilization includes structural and non-structural measures taken to address erosion impacts caused by natural processes, such as currents, floods, and waves. "Hard" structural shoreline stabilization measures include solid, hard surfaces, such as concrete or boulder bulkheads. "Soft" structural shoreline stabilization measures rely on less rigid materials, such as anchored logs, limited rock placement in conjunction with other components, and beach enhancement.

Generally, the harder the structural shoreline stabilization measure, the greater the impact on shoreline processes. Nonstructural shoreline stabilization measures include shoreline buffers, relocation of structures, groundwater management, and planning and regulatory measures to avoid the need for stabilization structures.

6.07.01 POLICIES

A. Use structural shoreline stabilization measures only when non-structural shoreline stabilization measures have been determined to be infeasible. The use of shoreline stabilization measures should be based on the following hierarchy of preference:

   1. Take no action. Allow the shoreline to retreat naturally, increase shoreline buffers, and relocate structures.

   2. Use flexible, bioengineered structures constructed of natural materials such as protective berms, protective matting made of natural materials, large woody debris, or vegetative stabilization.

   3. Employ rigid structures constructed of artificial materials such as riprap or concrete.

B. Locate and design shoreline stabilization measures to fit the physical character of the specific shoreline reach, which may differ substantially from adjacent reaches.

C. Coordinate the development of shoreline stabilization measures between affected property owners and public agencies.

D. Consider the probable effects of proposed shoreline stabilization measures on neighboring properties.

E. Restrict the size of new shoreline stabilization structures to the minimum necessary.

F. Only permit new or expanded shoreline stabilization structures in limited instances.

G. Locate, design, and maintain shoreline stabilization structures to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features.

H. Locate and design shoreline stabilization structures to avoid the need for future structures where feasible.

I. Prohibit the installation of shoreline stabilization structures to create additional property.

J. Design land subdivisions to assure that future development on created lots are unlikely to require shoreline stabilization structures for reasonable development to occur.

K. Require new development on steep slopes or bluffs to be set back so that the need for shoreline stabilization structures is unlikely during the life of the development.

L. Prohibit new development requiring shoreline stabilization structures that are likely to cause adverse impacts to adjacent properties and shoreline areas.

M. Incorporate multiple use, restoration, and public shoreline access in the location, design, and maintenance of shoreline stabilization structures for public developments, whenever compatible with the primary purpose of the shoreline stabilization.

N. Utilize BMPs in the design of shoreline stabilization structures.

O. Allow new or expanded shoreline stabilization structures for ecological enhancement and restoration projects, or hazardous substance remediation projects only when non-structural measures are infeasible or would be insufficient to achieve enhancement, restoration, or remediation objectives.

6.07.02 REGULATIONS

A. Design and Location of New Development

1. New development shall be located and designed to avoid the need for future shoreline stabilization measures to the extent feasible.
2. New development that requires shoreline stabilization measures that causes significant impacts to adjacent properties and shorelines shall not be allowed.
3. Land subdivisions shall be designed to assure that future development of the created lots is not likely to require shoreline stabilization structures for reasonable development to occur.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization structures are unlikely to be necessary during the life of the development. The Shoreline Administrator may require a geotechnical analysis to demonstrate this.

B. Repair and Maintenance of Existing Shoreline Stabilization Structures

1. The following items distinguish between maintenance and repair of a shoreline stabilization structure and a new structure:
    a. Maintenance and repair includes modifications to an existing shoreline stabilization structure that is designed to ensure the continued function of the existing structure.
    b. A modification that increases the size of the existing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.
    c. Replacement of greater than 50 percent linear length of an existing shoreline stabilization structure, as measured on a cumulative basis since the structure

was established, is not considered repair or maintenance, and is considered a new structure.

d. Removal of an existing shoreline stabilization structure, including its footing or bottom course of rock, prior to the placement of a new structure, is considered a new structure for the purposes of this section. Removal of only the material above the footings or bottom course of rock is not considered a new structure and it qualifies as maintenance and repair.

e. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure subject to all the requirements of SMP Section 6.07, not maintenance or repair.

2. When an application proposes repair and maintenance of an existing legally established shoreline stabilization structure, it is subject to the following standards:

   a. Repair and maintenance of existing shoreline stabilization structures must be consistent with the requirements of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

   b. Areas of temporary disturbance within the shoreline buffer associated with maintenance and repair shall be restored to their pre-project condition within 30 days.

3. Repair of shoreline stabilization structures meeting all the criteria for exemption from a shoreline substantial development permit must still comply with SMP Section 6.07.02(E) and the SMP.

   a. Replacement of greater than 50 percent of linear length of an existing shoreline stabilization structure, as measured on a cumulative basis since the structure was established, except as provided below in SMP Section 6.07.02(B)(3)(b), is not considered repair or maintenance, and is considered a new structure.

   b. Replacement of the bank line stabilization structures within the footprint of the existing Westport Marina in the Westhaven Cove, which do not involve expansion, or a material change in design or extent of the Marina that would create new impacts when compared to the existing design or extent of the Marina, shall be considered repair and maintenance measures.

C. Replacement or Enlargement of Existing Shoreline Stabilization Structures

1. Replacement or enlargement of an existing shoreline stabilization structure shall be considered a new structure.

2. For purposes of this section, replacement means the construction of a new structure to perform the shoreline stabilization function of an existing structure that can no longer adequately serve its purpose.

D. Standards to Demonstrate Need for Shoreline Stabilization Structures

New shoreline stabilization structures shall only be allowed, when demonstrated to be necessary as follows:

1. To protect an existing primary structure, including a residence, if there is conclusive evidence documented by a geotechnical analysis that the primary structure is in danger from shoreline erosion caused by natural processes. Normal sloughing, erosion of steep bluffs, or shoreline erosion in itself, without a geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address problems away from the OHWM before considering new shoreline stabilization structures.
2. In support of water-dependent development when all of the conditions below apply:
    a. Site erosion is not being caused by upland conditions, such as drainage and the loss of vegetation;
    b. Nonstructural measures, such as planting vegetation or installing on-site drainage improvements, are not feasible or sufficient to address erosion causes or impacts adequately; and
    c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.
3. In support of new non-water-dependent development, including residences, when all of the conditions from water-dependent development from SMP Section 6.07.02(D)(2) apply and non-structural measures, such as placing the proposed development farther from the shoreline are not feasible or sufficient to address the erosion impacts adequately.
4. To protect historic or cultural resources, or as part of restoration or hazardous substance remediation projects pursuant to Chapter 70.105D RCW, when non-structural measures, such as planting vegetation or installing on-site drainage improvements, are not feasible or sufficient to adequately address the causes of erosion or avoid continued degradation, disturbance, or erosion of a site.
5. A geotechnical analysis is not required when an applicant proposes to replace an existing shoreline stabilization structure with a softer measure, so long as the

applicant demonstrates through site photographs and a written narrative the need to protect the primary uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

6. Replacement of hard shoreline stabilization structures shall not encroach waterward of the OHWM or the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement for the shoreline stabilization structure shall be attached to and waterward of the existing structure. All other replacement of hard stabilization structures shall be located at or landward of the existing shoreline stabilization measure.

E. General Design Standards

1. Shoreline stabilization measures shall not result in a net loss of shoreline ecological function.
2. When a hard or soft shoreline stabilization structure is demonstrated to be necessary, the following design standards shall be incorporated as part of the design:
    a. Impacts to sediment transport shall be avoided or minimized.
    b. Shoreline stabilization structures shall be the minimum size necessary by height, depth, and mass, and not extend waterward more than the minimum amount needed to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
    c. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible for new, enlarged, or replacement shoreline stabilization structures, unless demonstrated insufficient to protect primary structures in a geotechnical analysis.
    d. When feasible, hard structural shoreline stabilization measures shall be limited to the portion of the site necessary to protect primary structures or connect to existing shoreline stabilization measures on adjacent properties.
    e. All clearing, grading, and fill associated with shoreline stabilization structures shall be conducted landward of the OHWM to the maximum extent feasible unless it is infeasible due to safety or environmental concerns.
    f. Fill behind shoreline stabilization structures is limited to one cubic yard per running foot of stabilization. Filling in excess of this amount shall be subject to

the regulations in SMP Section 6.03 and require a shoreline substantial development permit or shoreline conditional use permit.

g. All approved new, enlarged, or replacement shoreline stabilization structures shall be designed using BMPs, including WDFW's Integrated Streambank Protection Guidelines, and minimize and mitigate unavoidable adverse impacts to ecological functions, consistent with SMP Section 4.03.

h. All new, enlarged, or replacement shoreline stabilization structures shall mitigate adverse impacts to ecological functions. Mitigation measures shall be identified by the project proponent as part of the project application, and may be supplemented by the city, or state or federal agencies, depending on the level of impact.

i. When a new shoreline stabilization structure is proposed on a site where adjacent properties do not have shoreline stabilization structures, the new structure shall tie in with the existing contours of the adjoining properties, as feasible, to prevent erosion of the neighboring land.

j. When a new shoreline stabilization structure is proposed on a site where adjacent properties have shoreline stabilization structures, the new structure may tie in with the existing structures on the adjoining properties. The new structure shall minimize, to the maximum extent feasible, the portion of the new structure that is waterward of the OHWM to connect to the existing structures.

k. Shoreline stabilization structures shall be designed to ensure that the project remains stable during storm events, flood events, and wave conditions.

l. Shoreline stabilization shall be designed not to significantly interfere with normal surface or subsurface drainage into the adjacent waterbody.

m. All shoreline stabilization shall be designed to avoid hazards to navigation.

n. Shoreline stabilization shall be designed to ensure that it does not restrict appropriate public access to the shoreline. Where a shoreline stabilization structure is required at a public access site, provisions for safe access to the water shall be incorporated into the design.

o. Stairs or other water access measures may be incorporated into shoreline stabilization design, but they shall not extend waterward of the OHWM.

F. Submittal Requirements

In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit a geotechnical analysis prepared by an engineer licensed by the state as part of a request to construct a new, enlarged, or replacement shoreline stabilization structure. This analysis must include:

1. An assessment of the need for the shoreline stabilization structure based on site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocity, and the location of the nearest shoreline stabilization structure.
2. The estimated time frames and rates of erosion to convey the urgency associated with the specific situation.
3. An explanation of why SMP Sections 6.07.02(D)(2)(a) and (b) are not sufficient to address erosion issues.
4. Detailed construction plans for all shoreline stabilization structures, including, but not limited to, the following:
    a. Plan and cross-section views of the existing and proposed shoreline configuration, showing OHWM and accurate existing and proposed topography;
    b. A detailed construction sequence and specifications for all materials; and
    c. A mitigation and monitoring plan to ensure no net loss of shoreline functions.

7 SHORELINE ADMINISTRATION

7.01 INTRODUCTION

SMP Chapter 7: Shoreline Administration describes the administrative procedures and enforcement of a permit system that implements the SMP. Issuance of a shoreline permit or letter of exemption from the Shoreline Administrator does not exclude the requirements for other city, state, and federal permits, procedures, and regulations.

7.02 PERMIT PROCESSING - GENERAL

7.02.01 SHORELINE ADMINISTRATOR

A. The Shoreline Administrator shall be responsible for the administration of the permit system in accordance with the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the city. This shall include, but not be limited to, determinations of whether a development is exempt or requires a shoreline substantial development permit, conditional use permit, or variance.

B. The Shoreline Administrator shall ensure that administrative provisions are in place so that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.

C. Administrative Interpretation.

1. The Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.

2. As part of this process, the Shoreline Administrator shall consult with Ecology to insure that formal written interpretations are consistent with the purpose and intent of the SMA and Chapter 173-26 WAC.

3. Formal interpretations shall be kept on file by the city and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.

D. The Shoreline Administrator shall have the authority to enter into formal agreements with other jurisdictions that have an Ecology-approved SMP to address the review of projects where there is overlapping or shared shoreline permitting authority.

E. The Shoreline Administrator shall review every application that is submitted and determine if the application is complete based upon the information required by this section.

7.02.02 PROVISIONS APPLICABLE TO ALL SHORELINE PERMITS

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to local development codes and standards, Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit is required.

B. No authorization to undertake a use or development on shorelines of the state shall be granted by the city, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMP.

C. RCW 36.70A.480 governs the relationship between the SMP and the city's development regulations to protect critical areas that are adopted under Chapter 36.70A RCW.

D. Applications for shoreline substantial development permits, conditional use permits, and variances shall be processed in accordance with the SMP.

E. The applicant shall meet all of the review criteria for all development found in WAC 173-27-140.

F. A shoreline substantial development shall not be undertaken within the city unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.

G. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP.

H. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

7.02.03 APPLICATION REQUIREMENTS

Applications for shoreline permits or letters of exemptions shall be made on forms provided by the Shoreline Administrator. An applicant for a shoreline substantial development permit, who wishes to request a shoreline conditional use permit or variance, shall submit the shoreline conditional use permit or variance application(s) and the shoreline substantial development permit application simultaneously.

Applications shall be substantially consistent with the information required by WAC 173-27-180 and include any additional submittals deemed necessary by the Shoreline Administrator for proper review of the proposal.

7.03 APPLICATION - NOTICES

The following is applicable for the notice requirements all notices related to actions under the SMP:

A. Within 14 days from making a determination of complete application, the Shoreline Administrator shall provide public notice of the application. Notice of environmental review under SEPA (Chapter 43.21C RCW) may be combined with the application notice.

B. The public notice shall include:

   1. The date the application was made and the date the application was determined to be complete;

   2. A description of the proposed project action and a list of the project permits included in the subject application;

   3. The identification of other permits not included in the subject application, if known;

   4. The identification of existing environmental documents that evaluate the proposed project and where such documents may be reviewed;

   5. A statement of the public comment period, which shall be at least 30 days;

   6. The date, time, and place of the public hearing and a statement that a person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Hearing Examiner at the public hearing;

   7. A statement of preliminary determination, if one has been made; and

   8. Any other information determined appropriate by the city.

C. The Shoreline Administrator shall provide notice by at least one of the following noticing methods:

   1. Mailing of the notice to the latest recorded real property owners as shown by the records of the Grays Harbor County Assessor within 300 feet of the property boundary of the subject proposal;

2. Posting the notice in a conspicuous manner on the property upon which the project is to be undertaken; or
3. Publishing the notice in the legal newspaper for the city.

D. The notification system shall also provide notice to all agencies with jurisdiction in the proposal per Chapter 43.21C RCW and to all other agencies that request in writing any such notice.

E. The Shoreline Administrator shall give notice of the application no less than 30 days prior to permit issuance.

F. The public notice shall also state that a person interested in the Hearing Examiner action on an application for a permit may notify the Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the Shoreline Administrator or the submission of views to the Hearing Examiner shall entitle said persons to a copy of the action taken on the application.

7.04 SHORELINE PERMITS AND APPROVALS

7.04.01 SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS

The following is applicable for all shoreline substantial development permits:

A. A shoreline substantial development permit shall be granted by the Hearing Examiner only when the development proposed is consistent with the following:

1. Goals, policies and use regulations of the SMP;
2. The cities' Comprehensive Plan, development codes, and associated regulations; and
3. The policies and regulations of the SMA as well as the associated guidelines (Chapter 90.58 RCW; Chapters 173-26 and 173-27 WAC).

B. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-140 and WAC 173-27-150. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

7.04.02 SHORELINE CONDITIONAL USE PERMITS

A. The purpose of a conditional use is to provide a system within the SMP, which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020.

B. The criteria in WAC 173-27-140 and WAC 173-27-160 shall constitute the minimum criteria for review and approval of a shoreline conditional use permit.

C. Uses that are not classified or set forth in the SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

D. Uses that are specifically prohibited may not be authorized.

E. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

F. The decision of the Hearing Examiner shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

7.04.03 SHORELINE VARIANCES

A. The purpose of a variance is strictly limited to granting relieve from specific bulk, dimensional, or performance standards set forth in the SMP where the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

B. The criteria in WAC 173-27-140 and WAC 173-027-170 shall constitute the minimum criteria for review and approval of a shoreline variance.

C. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of the variance as necessary to assure consistency of the proposal with the above criteria.

D. The decision of the Hearing Examiner shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline variance consistent with WAC 173-27-200.

7.04.04 SHORELINE LETTERS OF EXEMPTION

The following is applicable for all shoreline letters of exemption:

A. A letter of exemption shall be required for a development that is exempt from the requirements for a shoreline substantial development permit.

B. To qualify for a letter of exemption, the proposed use, activity, or development must meet all of the requirements for an exemption. Exemptions and the standards for interpreting exemptions are found in WAC 173-27-040.

C. The Shoreline Administrator may issue a letter of exemption for emergency construction necessary to protect property from damage by the elements in accordance with WAC 173-27-040. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the SMP. 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.

D. Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

E. For exempt development proposals subject to review, approval, and permitting by a state or federal agency in shoreline jurisdiction or identified in this SMP as requiring a shoreline letter of exemption, the Shoreline Administrator shall prepare a letter of exemption in accordance with WAC 173-27-050(1). The letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040(2) that are being applied to the development and the letter shall provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP. The letter of exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

F. Ecology is designated as the coordinating agency for the state with regard to permits issued by the USACE. The following is intended to facilitate Ecology's coordination of actions, with regard to exempt development, with federal permit review.

   1. The Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:

      a. A USACE Section 10 permit under the Rivers and Harbors Act of 1899. The provisions of Section 10 of the Rivers and Harbors Act generally apply to a

project occurring on or over navigable waters. Specific applicability information should be obtained from the USACE; or

b. A Section 404 permit under the Federal Water Pollution Control Act of 1972. The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to a project that may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the USACE.

2. Ecology will be notified prior to issuance of the letter of exemption.

7.05 PUBLIC HEARING AND DECISION

7.05.01 BURDEN OF PROOF FOR DEVELOPMENT CONFORMANCE

A. The burden of proving that the proposed development is consistent with the criteria set forth in the SMP, as well as the requirements of the SMA shall be on the applicant.

7.05.02 PUBLIC HEARING PROCESS

A. The Hearing Examiner shall hold at least one open record public hearing on each application for a shoreline substantial development permit, conditional use permit or variance in the shoreline jurisdiction. . If, for any reason, testimony on a matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Hearing Examiner may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

B. Within 10 working days of the conclusion of the hearing, unless a longer period is mutually agreed to by the applicant and the Hearing Examiner, the Hearing Examiner shall render a written decision. When the Hearing Examiner renders the final decision, the Hearing Examiner shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and city regulations.

7.05.03 NOTICE OF DECISION

A. The Shoreline Administrator shall notify the following persons in writing of the Hearing Examiner's final approval, conditional approval, or disapproval of a shoreline substantial

development permit, conditional use permit, or variance within 10 days of the Hearing Examiner's final decision:

1. The applicant;
2. Ecology, which will include all the information required in WAC 173-27-130 for filing with the department;
3. The State Attorney General, which will include a copy of the same information submitted to Ecology;
4. Any person who has provided written or oral comments on the application or the public hearing; and
5. Any person who has written the Shoreline Administrator requesting notification.

7.05.04 DEVELOPMENT START

A. Development in accordance with a shoreline substantial development permit, conditional use permit, or variance shall not be authorized until 30 days from the date of filing of the approved shoreline substantial development permit, conditional use permit, or variance with Ecology and Attorney General, or until all review proceedings initiated within 30 days of the date of such filing have been terminated.

B. The date of filing of a substantial development permit is the date of receipt by Ecology of the city's decision.

C. Shoreline conditional use permits and variances are subject to Ecology review and approval before the 30-day period starts. The date of filing of a shoreline conditional use permit or variance is the date Ecology's decision is transmitted to the city.

D. The date of filing when a shoreline substantial development permit decision is simultaneously transmitted with local approval of either a shoreline conditional use permit or variance, or both is the same as defined in 7.05.04 C above.

7.05.05 APPEALS OF DECISIONS

A. Any person aggrieved, by the granting or denying of a shoreline substantial development permit, conditional use permit, or variance, or by the rescinding of a permit in accordance with the provisions of the SMP, may seek review from the State Shorelines Hearings Board (SHB). A request for review may be done by filing a petition for review with the board within 21 days of the date of filing of the final decision, as defined by RCW 90.58.140(6) and by concurrently filing copies of such request with the

City Clerk – Treasurer, Ecology and the Attorney General's office. SHB regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

B. An appeal of a letter of exemption would first be heard by the city's Hearing Examiner and then the appeal would follow the Land Use Petition Act (LUPA) judicial review of land use decisions process found in Chapter 36.70C RCW.

C. Aside from permit decisions in SMP Section 7.05.05(A), appeals of administrative and enforcement decisions made pursuant to this code shall be decided by the Land Use Hearing Examiner pursuant to Chapter 2.26 WMC. Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who has requested notice or who the administrator believes may be affected by or interested in the appeal. Notice shall be mailed no later than 10 days before the hearing.

7.06 TIME REQUIREMENTS AND REVISIONS

7.06.01 TIME REQUIREMENTS FOR SHORELINE PERMITS

A. The time requirements of WAC 173-27-090 shall apply to all shoreline substantial development permits, conditional use permits or variances authorized in accordance with this SMP.

7.06.02 REVISIONS OF SHORELINE PERMITS

A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the SMP, and/or the SMA. Changes, which are not substantive in effect, do not require approval of a revision.

B. Permit revisions shall be processed in accordance with WAC 173-27-100.

C. If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision must be reviewed and approved by Ecology under the SMA.

D. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

7.07 NON-CONFORMING DEVELOPMENT

A. Non-conforming use or development means a shoreline use, development, or structure that was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but does not conform to present regulations or standards of the SMP.

B. Nonconforming use and development standards not addressed in the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the city code, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.

C. For nonconforming shoreline uses, development or structures, the following standards shall apply:

1. A nonconforming use, development, or structure may continue provided that it is not enlarged or expanded;

2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline buffers established in the SMP

3. A nonconforming use, development or structure which is moved any distance must be brought into conformance with the SMA and the SMP;

4. If a nonconforming structure is damaged to an extent not exceeding 75% of the replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within two years of the date of damage. Single-family nonconforming development may be replaced if damaged to 100%, if the restoration is completed within three years of the date of damage;

5. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

6. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;

7. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was established in accordance with local and state subdivision requirements prior to the effective date of the SMA and the SMP, may be developed if permitted by other local land use regulations so long as such development conforms to all other requirements of the SMA and the SMP;
8. A use which is listed as a conditional use but which existed prior to adoption of the SMP and for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use; and
9. A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

7.08 ENFORCEMENT AND PENALTIES

7.08.01 ENFORCEMENT

A. The Shoreline Administrator or a designated representative shall enforce all provisions of the SMP. For such purposes, the Shoreline Administrator or a designated representative shall have the power of a police officer.

B. 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.

C. The enforcement procedures and penalties contained in WAC 173-27-240 through WAC 173-27-310 are hereby incorporated by reference.

7.08.02 PENALTY

A person found to have willfully engaged in activities in shoreline jurisdiction in violation of the SMA or in violation of the SMP or rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of the city's code, RCW 90.58.210 and RCW 90.58.220, and WAC 173-27-270 and WAC 173-27-280.

A. Civil Penalty

1. Action: The City Attorney, when authorized by the Mayor, shall bring such injunctive, declaratory, or other actions as are necessary to insure that uses in shoreline jurisdiction are not in conflict with the provisions of the SMA and the SMP.
2. Non-Compliance: Any person who fails to conform to the terms of a permit issued under the SMP or who undertakes a development or use in shoreline jurisdiction without first obtaining any permit required under the SMP or who fails to comply with a cease and desist order issued under regulations shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.
3. Aiding and Abetting: Any person who, through an act of commission or omission, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
4. Notice of Penalty: The penalty provided for in this section shall be imposed by a notice in writing, by certified mail either with return receipt requested or by personal service, to the person incurring the same from the city, Ecology, or both. The notice shall include the "content of order" specified in SMP Section 7.08.02(A)(6).
5. Remission and Joint Order: Within 30 days after the notice is received, the person incurring the penalty may apply in writing to the Hearing Examiner for remission or mitigation of the penalty. Upon receipt of the application, the Hearing Examiner may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.
6. Any penalty imposed pursuant to this section shall be subject to review by the Hearing Examiner. In accordance with RCW 90.58.050 and RCW 90.58.210(4), any penalty jointly imposed by the city and Ecology shall be appealed to the SHB. When a penalty is imposed jointly by the city and Ecology, it may be remitted or mitigated only upon such terms as both the city and Ecology agree.
7. Regulatory Order: Content of order shall contain:
    a. A description of the specific nature, location, extent, and time of violation and the damage or potential damage including applicable SMA or SMP language; and

b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under this section may be issued with the order and it shall specify a date certain or schedule by which payment will be complete.

8. Effective Date: The cease and desist order issued under this subsection shall become effective immediately upon receipt by the person to whom the order is directed.

9. Compliance: Failure to comply with the terms of a cease and desist order can result in enforcement actions including the issuance of a civil penalty.

B. Mandatory Civil Penalties

Issuance of civil penalties is mandatory in one or more of the following instances:

1. The violator has ignored the issuance of an order or notice of violation;
2. The violation causes or contributes to significant environmental damage to shoreline jurisdiction as determined by the city; or
3. A person causes, aids, or abets in a violation within two years after issuance of a similar regulatory order, notice of violation, or penalty by the city or Ecology against said person.

C. Minimum Penalty Levels

1. The minimum penalty for all mandatory penalties is $250.
2. For all other penalties, the minimum penalty is $100.

D. General Criminal Penalty

1. In addition to incurring civil liability under SMP Section 7.08.02(A), any person found to have willfully engaged in activities in shoreline jurisdiction in violation of the provisions of the SMA or SMP shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than $100 nor more than $1,000 or by imprisonment in the Grays Harbor County jail for not more than ninety days for each separate offense, or by both such fine and imprisonment. Provided, that the fine for each separate offense for the third and all subsequent violations in any five-year period shall not be less than $500 nor more than $10,000.

E. Development and Building Permits

1. No building permit, septic tank permit, or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP. All purchasers or transferees of property shall comply with provisions of the SMA and SMP. A

purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the SMA or SMP, including any amount reasonably spent as a result of inability to obtain development permits and spent to conform to the requirements of the SMA or SMP as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby.

2. A purchaser, transferee, or lessor may, as an alternative to making his property conform to these requirements, rescind the sale, transfer, or lease, and recover cost of investigation and reasonable attorney's fees occasioned thereby from the violator.

7.08.03 PUBLIC AND PRIVATE REDRESS

A. A person subject to the regulatory program of the SMP who violates any provision of the SMP 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. The City Attorney may sue for damages under SMP Section 7.08 on behalf of the city.

B. Private persons shall have the right to sue for damages under this section on their own behalf and on behalf of all persons similarly situated. 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.

7.08.04 DELINQUENT PERMIT PENALTY

A. A person applying for a permit after commencement of the use or activity may be required, at the discretion of the city to pay a delinquent permit penalty not to exceed three times the appropriate permit fee paid by the applicant.

B. A person who has caused, aided, or abetted a violation within two years after the issuance of a regulatory order, notice of violation, or penalty by the city or Ecology against said person may be subject to a delinquent permit penalty no to exceed ten times the appropriate permit fee paid by the applicant. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

7.09 SHORELINE MASTER PROGRAM – ADMINISTRATION

7.09.01 GENERAL ADMINISTRATION

A. The Shoreline Administrator shall record all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.

B. As part of shoreline permit review process, the Shoreline Administrator shall evaluate shoreline conditions on an ongoing basis to ensure no net loss of ecological functions, to protect and enhance visual quality, and to identify and protect significant historic or cultural resources in the shoreline. Specific issues to address in evaluations include, but are not limited to the following:

1. Water quality;
2. Conservation of aquatic vegetation and control of noxious weeds;
3. Changing visual character as a result of new development or redevelopment and individual vegetation conservation practices along shoreline and upland areas;
4. Shoreline stabilization and modifications; and
5. Significant historic or cultural resources within shoreline jurisdiction resulting from research, inventories, discoveries, or new information.

7.09.02 SHORELINE MASTER PROGRAM REVIEW

The following guidelines are to be used for review and amendments of the SMP:

A. The SMP shall be reviewed periodically, at least once every eight years as required by RCW 90.58.080(4)(b) beginning on or before June 30, 2022 and every eight years thereafter. Amendments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.

B. The Shoreline Administrator should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Related to the constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, State of Washington, *Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*, first published in February 1992.

C. Provisions of the SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and Chapter 173-26 WAC. Standards in WAC 173-26-201 in particular articulate many of the factors to consider as part of the revisions.

D. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

7.09.03 ANNEXATION OF A SHORELINE OF THE STATE

A. Except as provided in WAC 173-26-150, in the event of annexation of a shoreline of the state, the local government assuming jurisdiction shall notify Ecology of such annexation and develop or amend the city's SMP to include the annexed area. Such SMP development or amendment shall be consistent with the policy of RCW 90.58.020 and the applicable guidelines and shall be submitted to Ecology for approval no later than one year from the effective date of annexation.

B. Until a new or amended master program is adopted by Ecology, any decision on an application for a shoreline permit in the annexed shoreline area shall be based upon compliance with the SMP in effect for the area prior to annexation.

8 DEFINITIONS

8.01 UNLISTED WORDS OR PHRASES

Any word or phrase not defined in SMP Chapter 8: Definitions that is called into question when administering the SMP shall be defined utilizing the SMA and its implementing rules.

The Shoreline Administrator may obtain secondary definition sources from one of the following sources:

A. The city's code.

B. Any city resolution, ordinance, policy, or regulation.

C. The most applicable statute or regulation from the state.

D. Legal definitions generated from case law or provided within a law dictionary.

E. The common dictionary.

8.02 DEFINITIONS

A

Accessory Structure or Use – A structure or use incidental, related, and clearly subordinate to the principal structure or use of a lot or main building. An accessory structure or use is only located on the same lot as a permitted principal structure or use.

Act – The Washington State Shoreline Management Act (SMA) (Chapter 90.58 RCW and addressed in WAC 173-27).

Adaptive Management – Adaptive management relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty.

Adjacent – Immediately adjoining (in contact with the boundary of the influence area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

A. On a site immediately adjoining a critical area;

B. A distance equal to or less than the required critical area buffer width and building setback;

C. A distance equal to or less than one-half mile from a bald eagle nest;

D. A distance equal to or less than 300 feet upland from a stream, wetland, or waterbody;

E. Bordering or within the floodway or floodplain; or

F. A distance equal to or less than 200 feet from a CARA.

Adoption by Rule – An official action by Ecology to make the city's SMP effective through rule consistent with the requirements of the Administrative Procedure Act, Chapter 34.05, thereby incorporating the adopted SMP or amendment into the state master program.

Advance Mitigation – Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in RCW 90.58.065.

Alteration – Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

Anadromous Fish – Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

Applicant – Any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a shoreline development proposal, permit, or approval.

Appurtenance – A building, structure, or development necessarily connected to the use and enjoyment of a single-family residence that is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed 250 cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

Aquifer – A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

Aquifer Recharge Areas – Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Aquifer, Sole Source – An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50% or more of the drinking water for an area without a sufficient replacement available.

Aquifer Susceptibility – The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

Associated Wetlands – Those wetlands that are in proximity to, and either influence or are influenced by, tidal waters or a lake or stream subject to the SMA. Refer to WAC 173-22-030(1).

Average Grade Level – The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property, which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the OHWM. Average grade level is determined by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. The use of an artificial grade is not allowed for determining height.

B

Best Available Science (BAS) – Information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-

900 through -925, BAS is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

Berm – A linear mound or series of mounds of sand or gravel generally that parallels the water at or landward of the line of ordinary high tide. In addition, a linear mound used to screen an adjacent use, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters and include conservation practices or systems of practices and management measures that:

A. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;

B. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

C. Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and

D. Provide standards for proper use of chemical herbicides within critical areas.

Breakwater – An offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages, and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

Buffer or Buffer Zone – The area contiguous with a shoreline of the state or a critical area that maintains the functions and/or structural stability of the shoreline of the state or critical area.

Building Setback – A required structural setback, specified in the SMP, measured horizontally upland from a shoreline buffer and perpendicular to the OHWM, if used with a shoreline buffer, or measured horizontally upland from and perpendicular to the OHWM, if used without a shoreline buffer, as specified in SMP Chapter 5: Specific Shoreline Use Policies & Regulations. A building setback protects the waterbody and shoreline buffer from the impacts related to use of a structure.

Bulkhead – A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

C

Chapter 90.58 RCW – The Shoreline Management Act of 1971, as amended.

City – The city of Westport.

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.

Clearing – The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

Coastal High Hazard Area – An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the flood insurance map(s) as Zone V1-30, VE, or V.

Compensation Project – Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

Compensatory Mitigation – Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

A. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

B. Creation – Actions performed to establish a wetland intentionally at a site where it did not formerly exist.

C. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

D. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

Comprehensive Plan – The document, including maps adopted by the city in accordance with applicable state law.

Conditional Use – A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable SMP. Refer to WAC 173-27-030(4).

Conservation Easement – A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

County – Grays Harbor County.

Creation – The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

Critical Aquifer Recharge Area (CARA) – Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

Critical Areas – Defined under Chapter 36.70A RCW includes the following areas and ecosystems:

A. Wetlands;

B. Areas with a critical recharging effect on aquifers used for potable waters;

C. Fish and wildlife habitat conservation areas;

D. Frequently flooded areas; and

E. Geologically hazardous areas

Critical Area Tract – Land held in private ownership and retained in an open condition in perpetuity for the protection of critical areas. Lands within this type of dedication may include but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100-year floodplains, shorelines or shorelines of statewide significance, riparian areas, and wetlands.

Critical Areas Special Study – A study that identifies and characterizes any critical area as a part of the larger development proposal site, assesses any hazards to the proposed development, assesses impacts of the development proposal on any critical areas on or adjacent to the development proposal site, and assesses the impacts of any alteration proposed for a critical area. Studies propose adequate mitigation, maintenance and monitoring plans and bonding

measures. Critical areas special studies include a scale map of the development proposal site and a written report.

Critical Facility – Facilities for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

Critical Saltwater Habitat – Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Critical Species – All animal and plant species listed by the state or federal government as threatened or endangered.

Cumulative Impact – The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over an interval of time.

D

Data Maps – A series of maps maintained by the city for graphically depicting the boundaries of critical areas.

Date of Filing – The date of receipt by Ecology. For a substantial development permit, the date of filing is the date of receipt by Ecology. For shoreline conditional use and variance permits, and substantial development permits simultaneously transmitted with a shoreline conditional use or variance permit, the date of filing is the date Ecology's decision is transmitted to the city.

Developable Area – A site or portion of a site that may be used as the location of development, in accordance with the policies and regulations of this SMP.

Development – The construction or exterior alteration of buildings or structures; dredging; drilling; dumping; filling; removal of sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or a project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3)(a)).

Development Permit – Any permit issued by the city or other authorized agency, for construction, land use, or the alteration of land.

Dredging – Excavating or displacing of the bottom or shoreline of a waterbody. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain navigation channel depths or berths for navigational purposes; other dredging is for clean-up of polluted sediments.

E

Ecological Functions – The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecology – The Washington State Department of Ecology.

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.

Emergency – An unanticipated and imminent threat to public health, safety, or the environment, requiring immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)). Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency, upon abatement of the emergency the new structure shall be removed or any permit which would have been required, absent an emergency, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but are not imminent are not an emergency.

Endangered Species Act (ESA) – A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Enhancement – The manipulation of the physical, chemical, or biological characteristics of a shoreline buffer or wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in shoreline buffer or wetland function(s) and can lead to a decline in other shoreline buffer or wetland functions, but does not result in a gain in shoreline buffer or wetland area. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

Environmental Impacts – The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the SEPA. Refer to WAC 197-11-600 and WAC 197-11-444.

Environments, (Shoreline Environment) – Designations given specific shoreline areas based on the existing development pattern, the biophysical character and limitations, and the goals and aspirations of local citizenry, as part of an SMP.

Erosion – The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Erosion Hazard Areas – At least those areas identified by the USDA National Resources Conservation Service (NRCS) as having a "severe" rill and inter-rill erosion hazard.

Exemption – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. A use or activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the city's SMP. Shoreline conditional use permits and variances may also still be required even though the use or activity does not need a shoreline substantial development permit (WAC 173-27-040).

F

Fair Market Value – Means 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 donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

Feasible – An action, such as a development project, mitigation, or preservation requirement, that 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 the SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the city may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fill – Raising the elevation or creating dry land by adding soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetland, or on shorelands.

Fish and Wildlife Habitat Conservation Areas – Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

A. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

B. Habitats of local importance, including but not limited to areas designated as priority habitat by the WDFW;

C. Commercial and recreational shellfish areas;

D. Kelp and eelgrass beds;

E. Herring and smelt spawning areas;

F. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;

G. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state;

H. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;

I. State natural area preserves and natural resource conservation areas; and

J. Land essential for preserving connections between habitat blocks and open spaces.

Fish Habitat – Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of run-off of surface waters from any source.

Flood Insurance Map – The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and include the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

Flood Insurance Study – The official report that was provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodplain – Term is synonymous with 100-year floodplain. The land area that is susceptible to being inundated with a one percent chance of being equaled or exceeded in a given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

Floodway – The area that has either: (i) has been established in FEMA FIRMs or floodway maps; or (ii) consists of those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Forested Wetland – A wetland with at least 30% of the surface area covered by woody vegetation greater than 20 feet in height that is at least partially rooted within the wetland.

Frequently Flooded Areas – Those lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like. The one-hundred-year floodplain designations of the National Flood Insurance Program delineate the presence of frequently flooded areas.

Functions and Values – The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

G

Geologically Hazardous Areas – Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include erosion, landslide, seismic, mine, and volcanic hazards.

Geotechnical Report or Geotechnical Analysis – A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Grading – 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.

Groin – A barrier-type structure extending from, and usually perpendicular to, the backshore into a waterbody. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

Ground Water – Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

Ground Water Management Area – A specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a ground water management program is required.

Ground Water Management Program – A comprehensive program designed to protect ground water quality, to ensure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies, and authorities within a designated ground water management area or subarea and developed pursuant to Chapter 173-100 WAC.

Growth Management Act (GMA) – Chapters 36.70A and 36.70B RCW, as amended.

Guidelines – See Shoreline Management Program (SMP) Guidelines, Chapter 173-26 WAC.

H

Habitat Conservation Areas – Areas designated as fish and wildlife habitat conservation areas.

Habitats of Local Importance – These areas include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands. (WAC 365-190-030)

Hazard Areas – Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

Hazardous Substances – Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

Height – The vertical distance from the average finished grade to the highest point of the coping or parapet of a flat roof, or to the peak of the highest gable of a pitch, gambrel or hip roof, or to the highest point on a false wall on a building with a false front, or to the deck level on a mansard roof, or to the highest point on a structure; provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation.

Historic Condition – Condition of the land, including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by Euro-American settlement, or in some cases before any human habitation occurred.

Historic Resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

Hydraulic Project Approval (HPA) – A permit issued by the WDFW for modifications to waters of the state in accordance with Chapter 77.55 RCW.

I – J – K

Impermeable Surface – The area of a lot that is covered by impermeable surfaces, measured by percentage. A non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

Impervious Surface – Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces, which similarly impede the natural infiltration of stormwater.

In-Kind Compensation – To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

In-Water Structure – A structure placed by humans waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

Infiltration – The downward entry of water into the immediate surface of soil.

Injection Well(s)

A. Class I – A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water.

B. Class II – A well-used to inject fluids:

    1. Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

    2. For enhanced recovery of oil or natural gas; or

    3. For storage of hydrocarbons that are liquid at standard temperature and pressure.

C. Class III – A well-used for extraction of minerals, including but not limited to the injection of fluids for:

1. In-situ production of uranium or other metals that have not been conventionally mined;
2. Mining of sulfur by Frasch process; or
3. Solution mining of salts or potash.

D. Class IV – A well used to inject dangerous or radioactive waste fluids.

E. Class V – All injection wells not included in Classes I, II, III, or IV.

Interested Party – Synonymous with party of record, 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 the city 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 (WAC 173-27-030(12)).

Isolated Wetlands – Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

Jetty – A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are of riprapped mound construction.

L

Landscaping – Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Landslide Hazard Areas – Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Low Impact Development (LID) – A stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

M

Marina – Is defined as including the upland and in water properties bordered by the Westport Marina in the Westhaven Cove breakwaters and the USACE Revetment to the north and west, Harms Avenue and Montesano Street to the south, and Wilson Avenue and the area on both sides of Yearout Drive which is commonly referred to as Firecracker Point to the east.

Marina Related Commercial Development – Water-dependent, water-related, and water-enjoyment commercial development that are directly related to the structures, activities, and uses or support the users of the shorelines areas of the city. Examples include tourist related businesses such as food establishments, retail shops, museums, professional services, fishing equipment sales and service, information centers, rental shops, arcades and recreational facilities, charter fishing offices, and motels.

Marine – Pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

Marine Terminal – Includes industrial and commercial wharfs, piers, berths, docks, and similar structures used for shipping, marine cargo handling, transportation, navigation services, and vessel berthing, moorage, construction, repair, and resupply. See Mooring Structure.

Marram Grass – Also known as European Beach Grass (Amopholia arenaria).

Mature Forested Wetland – A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old or have average diameters (d. b. h.) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

May – An action that is acceptable, provided it conforms to the provisions of the SMP.

Mitigation or Mitigation Sequencing – Avoiding, reducing, or compensating for a proposal's environmental impact(s). See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

A. Avoiding the impact all together 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.

Monitoring – Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

Mooring Structure – Used in conjunction with a marine terminal including all manner of overwater and in-water fixed structures which include single pilings or multiple pilings connected together to form or support an anchoring structure for the mooring of vessels and protection of terminals from moored vessels. Examples include, but are not limited to, mooring piles and numerous forms of dolphins and fender piles.

Must – A mandate; the action is required.

N

Native Growth Protection Area (NGPA) – An area where native vegetation is preserved for preventing harm to property and the environment, including, but not limited to, controlling surface water run-off and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.

Native Vegetation – Vegetation comprised of plant species that are indigenous to Westport and the Washington Coast.

Natural or Existing Topography – The topography of the lot, parcel, or tract of real property immediately prior to site preparation or grading, including exaction or filling.

Non-Conforming Use or Development – A shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

Non-Water-Oriented Uses – Those uses that are not water-dependent, water-related, or water-enjoyment, which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair

shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

Normal Maintenance – 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.

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 involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

O

Off-Site Compensation – To replace critical areas away from the site on which a critical area has been impacted.

On-Site Compensation – To replace critical areas at or adjacent to the site on which a critical areas has been impacted.

Ordinary High Water Mark (OHWM) – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the city or Ecology: provided, that in an area where the OHWM cannot be found, the OHWM adjoining salt water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(5).

Off-Site Replacement – To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

Over-Water Structure – A device or structure projecting over the OHWM, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

P – Q

Permeability – The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Permit (or Shoreline Permit) – A shoreline substantial development permit, conditional use permit, or variance, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

Practical Alternative – An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

Preservation – The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

Primary Structure – The structure associated with the principal use of the property. It may also include single-family residential appurtenant structures, such as garages, attached decks, driveways, utilities, and septic tanks and drain fields, which cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses, or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

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. Fish spawning habitat;
D. Important wildlife habitat;
E. Important fish or wildlife seasonal range;
F. Important fish or wildlife movement corridor;
G. Rearing and foraging habitat;
H. Important marine mammal haul-out;
I. Refugia habitat;
J. Limited availability;
K. High vulnerability to habitat alteration;
L. Unique or dependent species; or
M. 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.

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 four 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 WDFW (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, or Tribal importance. Native and non-native 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 ESA as either proposed, threatened, or endangered.

Project Area – All areas, including those within 50 feet of the area, proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

Proposed, Threatened, and Endangered Species – Those native species that are proposed to be listed or are listed in rule by the WDFW as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the ESA.

Provisions – Policies, regulations, standards, guideline criteria or shoreline environment designations.

Public Access – Public access is the ability of the 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. Refer to WAC 173-26-221(4).

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 such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public Use – To be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on more than a day use basis. Refer to WAC 332-30-106.

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). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in geology, hydrology, or biology and professional experience related to the subject species.
B. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
C. A qualified professional for CARAs means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

R

RCW – Revised Code of Washington.

Recharge – The process involved in the absorption and addition of water to ground water.

Reclaimed Water – Municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment, it is no longer considered wastewater. Treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by Ecology and WDOH.

Recreational Facilities – Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement.

Re-establishment – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

Rehabilitation – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

Repair or Maintenance – An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

Residential Development – Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multifamily development and the creation of new residential lots through land division.

Restore, Restoration, or Ecological Restoration – The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, 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.

Riparian – Of, on, or pertaining to the banks of a river, stream, or lake.

Riparian Habitat – Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the OHWM or from the top of bank if the OHWM cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

Riprap – A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Run-Off – Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

S

Scrub-Shrub Wetland – A wetland with at least 30% of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

Section 404 Permit – A permit issued by the USACE for the placement of dredge or fill material or clearing in waters of the United States, including wetlands, in accordance with 33 USC § 1344. Section 404 permits may also be for endangered species consultation. They require a consultation under Section 7 of the ESA.

Seeps – A spot where water oozes from the earth, often forming the source of a small stream.

Seismic Hazard Areas – Areas that are subject to severe risk of damage because of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

Serviceable – Presently usable.

Shall – A mandate; the action must be done.

Shorelands or Shoreland Areas – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; adopted FEMA floodways and contiguous flood plain areas landward 200 feet from such adopted FEMA floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters, which are subject to the provisions of the SMA.

Shoreline Administrator – As appointed by the city's Mayor, the city's Shoreline Administrator is charged with the responsibility of administering the SMP.

Shoreline Buffer – A required vegetated open space, measured horizontally upland from and perpendicular to the OHWM. Shoreline buffers are naturally vegetated areas that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the waterbody.

Shoreline Environment Designations – The categories of shorelines established by the city's SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

Shoreline Jurisdiction – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within the city that are under the SMA. See definitions of shorelines, shorelines of the state, shorelines of statewide significance, shorelands, and wetlands.

Shoreline Management Act (SMA) – Chapter 90.58 RCW, as amended. Washington's SMA was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) – The comprehensive use plan and related use regulations, together with maps, diagrams, charts, or other descriptive material and text, which is used by the city to administer and enforce the permit system for shoreline management. The SMP must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Master Program (SMP) Guidelines – The state standards that the city must follow in drafting its SMP. The Guidelines translate the broad policies of the SMA into standards for regulation of shoreline uses.

Shoreline Modification – 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, application of chemicals, or significant vegetation removal.

Shoreline Permit – A shoreline substantial development permit, conditional use permit, variance, revision, or any combination thereof (WAC 173-27-030(13)).

Shoreline Stabilization – Actions taken to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural measures such as bulkheads and non-structural methods such as soil bioengineering. New stabilization measures include enlargement of existing structures.

Shorelines – All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

Shorelines Hearings Board (SHB) – A state-level quasi-judicial body, created by the SMA, which hears appeals on the granting, denying or rescinding of a shoreline permit, enforcement penalty and approval of SMPs in jurisdictions not fully planning under GMA . See RCW 90.58.170 and RCW 90.58.180.

Shorelines of Statewide Significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special use preferences apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the State – The total of Shorelines and Shorelines of statewide Significance.

Should – A particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and the SMP, against taking the action.

Sign – A device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions or b) identifying or advertising a place, establishment, product, good, or service.

Significant Portion of its Range – That portion of a species range likely to be essential to the long-term survival of the population in Washington.

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.

Significantly Degrade – To cause significant ecological impact.

Single-Family Residence – A detached dwelling designed for and occupied by one family including those buildings, structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2)(g)).

Soil Survey – The most recent soil survey for the local area or county by the NRCS, USDA.

Solid Waste – All garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including all source-separated recyclable materials and yard waste.

Special Protection Areas – Aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to the following:

A. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

B. Ground water recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and

C. Sole source aquifer status.

Species – Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

Species, Endangered – Any wildlife species native to the state that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

Species of Local Importance – Those species of local concern designated by the city due to their population status or their sensitivity to habitat manipulation.

Species, Priority – Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the WDFW, including endangered, threatened, sensitive, candidate, and monitor species, and those of recreational, commercial, or tribal importance.

Species, Sensitive – Any wildlife species native to the state that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

Species, Threatened – Any wildlife species native to the state that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

Steep Slopes – Any ground that rises at an inclination of forty percent or more within a vertical elevation change of at least ten feet (a vertical rise of ten feet or more for every twenty-five feet of horizontal distance). A slope is delineated by establishing its toe and top as measured by averaging the inclination over at least ten feet of vertical relief.

A. Toe of a slope is a distinct topographic break in slope, which separates slopes inclined at less than forty percent from slopes equal to or in excess of forty percent. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

B. Top of a slope is a distinct, topographic break in slope, which separates slopes inclined at less than forty percent from slopes equal to or in excess of forty percent. Where no distinct break in slope exists, the top of slope shall be the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

Stream – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than 20 cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels. (WAC 173-22-030(8)).

Strict Construction – The close or narrow reading and interpretation of a statute or written document.

Structure – A permanent or temporary edifice or building, or a 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(15)).

Structural Shoreline Stabilization –Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete groins, retaining walls, and bulkheads, while soft structural stabilization measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls, and bluff walls, and bulkheads. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Sub-drainage Basin or Subbasin – The drainage area of the highest order stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

Substantial Development – A development of which the total cost or fair market value exceeds $6,416.00, or any development, which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. Consumer price index means, for a calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). A list of developments, uses, and activities that are not considered substantial development is provided in SMP Chapter 7: Shoreline Administration (WAC 173-27-040(2)(a)).

T – U

Unavoidable Impacts – Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

Upland – Generally described as the dry land area above and landward of the OHWM.

Utilities – Services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, stormwater, sewage, and communications.

Utilities, Accessory – Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer, and stormwater service lines.

Utilities, Primary – Utilities comprised of trunk lines or mains that serve neighborhoods, areas, and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

V – W – Y – Z

Variance – A means to grant relief from the specific bulk, dimensional or performance standards specified in the SMP, but not a means to vary a shoreline use. Shoreline variances must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

Vulnerability – The combined effect of susceptibility to contamination and the presence of potential contaminants.

Water-Dependent Use – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

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 which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-Oriented Use – Any combination of water-dependent, water-related, or water-enjoyment uses that serves as an all-encompassing definition for priority uses under the SMA.

Water-Related Use – A use or a portion of a use, which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

A. 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 commercial activities and the proximity of the use to its customers makes its services less expensive or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent uses and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

Water Quality – The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in the SMP, the term water quantity refers only to development and uses regulated under the SMP and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of the SMP, does not mean the withdrawal of ground water or diversion of surface water in accordance with RCW 90.03.250 through RCW 90.03.340.

Watershed Restoration Plan – A plan developed or sponsored by the WDFW, Ecology, or WSDOT acting within or in accordance with its authority, a city, a county 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 in accordance with SEPA.

Well – A bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

Wellhead Protection Area – The portion of a zone of contribution for a well, well field, or spring, as defined using criteria established by Ecology.

Wetland or Wetland Areas – Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do

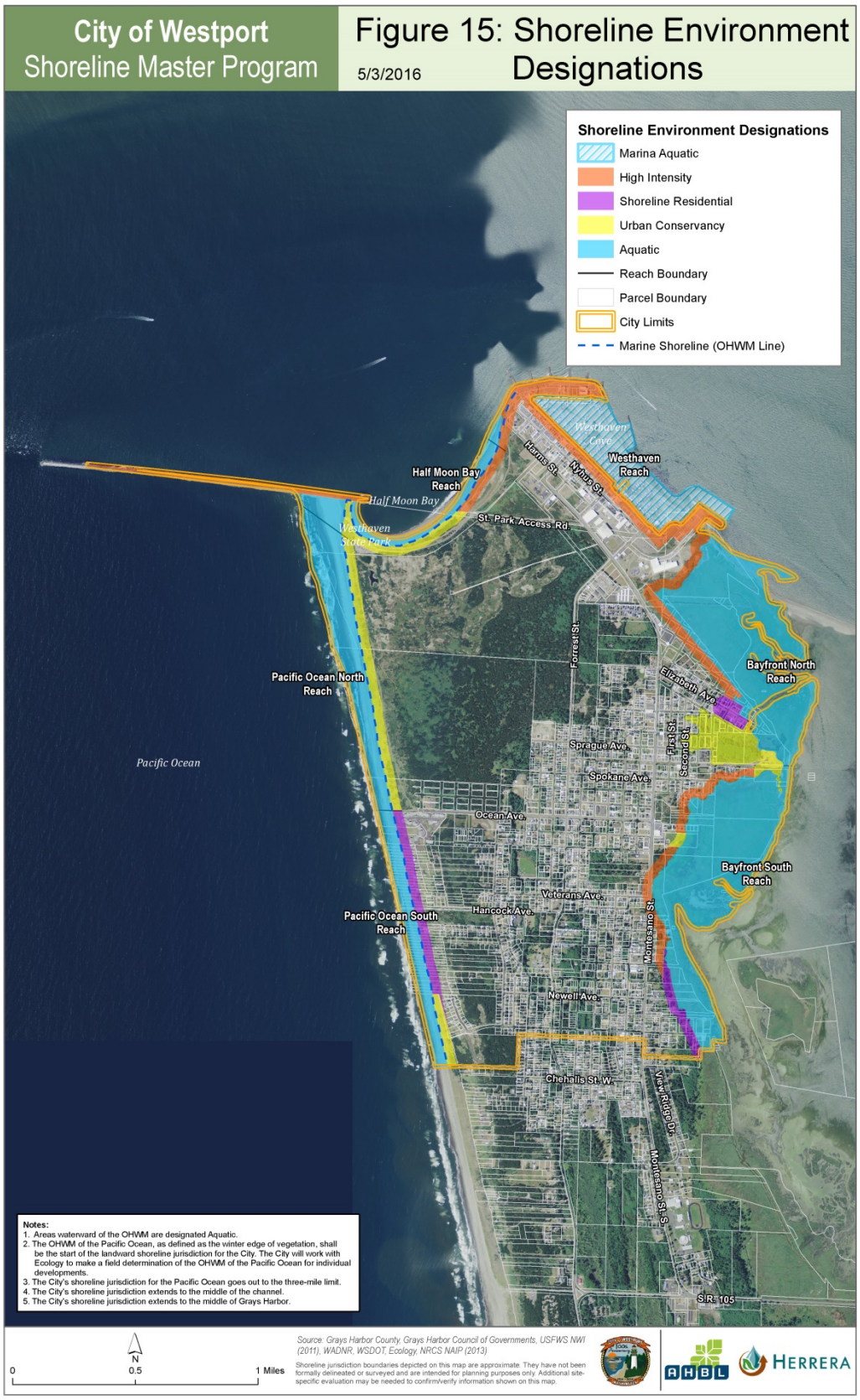
support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and 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.

Wetland Mitigation Bank – A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for providing advance mitigation to compensate for future, permitted impacts to similar resources.

Wetland Mosaic – An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water

Zone of Contribution – The area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

APPENDIX 1: SHORELINE ENVIRONMENT DESIGNATION MAP


City of Westport
Shoreline Master Program
Figure 15: Shoreline Environment Designations
5/3/2016
Shoreline Environment Designations
Marina Aquatic
High Intensity
Shoreline Residential
Urban Conservancy
Aquatic
Reach Boundary
Parcel Boundary
City Limits
Marine Shoreline (OHWM Line)
Westhaven Cove
Half Moon Bay Reach
Half Moon Bay
Westhaven State Park
Hanns St.
Myhre St.
Westhaven Reach
St. Park Access Rd
Forrest St.
Pacific Ocean North Reach
Pacific Ocean
Elizabeth Ave.
Bayfront North Reach
First St.
Second St.
Sprague Ave.
Spokane Ave.
Ocean Ave.
Bayfront South Reach
Veterans Ave.
Hancock Ave.
Pacific Ocean South Reach
Montesano St.
Newell Ave.
Chehalis St. W.
View Ridge Dr.
Montesano St. S.
S.R. 105
Notes:
1. Areas waterward of the OHWM are designated Aquatic.
2. The OHWM of the Pacific Ocean, as defined as the winter edge of vegetation, shall be the start of the landward shoreline jurisdiction for the City. The City will work with Ecology to make a field determination of the OHWM of the Pacific Ocean for individual developments.
3. The City's shoreline jurisdiction for the Pacific Ocean goes out to the three-mile limit.
4. The City's shoreline jurisdiction extends to the middle of the channel.
5. The City's shoreline jurisdiction extends to the middle of Grays Harbor.
N
0
0.5
1 Miles
Source: Grays Harbor County, Grays Harbor Council of Governments, USFWS NWI (2011), WADNR, WSDOT, Ecology, NRCS NAIP (2013)
Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.
AHBL
HERRERA

APPENDIX 2: CRITICAL AREAS REGULATIONS

Westport SMP Update – Draft Approved by City Council
SMP Appendix 2: Critical Areas Regulations

TABLE OF CONTENTS

LIST OF TABLES

1 GENERAL PROVISIONS

1.01 PURPOSE

A. The purpose of this Appendix is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property, as required within the shoreline jurisdiction under the SMA.

B. This Appendix protects environmentally sensitive resources within the shoreline jurisdiction of the city by establishing minimum standards for development of properties that contain or border environmentally sensitive features and thereby protecting the public health, safety, and welfare. These standards serve to preclude land uses and developments in the shoreline jurisdiction which are incompatible with critical areas by:

1. Protecting the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, tsunamis, or soil subsidence;
2. Avoiding public expenditures to address improper use or improper management of critical areas;
3. Preventing degradation of the natural environment;
4. Protecting unique, fragile, and valuable elements of the environment;
5. Including BAS in developing policies and development regulations to protect the functions and values of critical areas;
6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
7. Protecting the local renewable resources that the city's economy is heavily dependent on through conservation and protective measures;
8. Alerting property owners, potential buyers or lessees, and others to the existence of and the development limitations of critical areas; and
9. Providing city officials with sufficient information to protect critical areas when approving, conditioning, or denying public or private development proposals.

C. This Appendix is intended to protect critical areas in accordance with the SMA and through the application of the best available science (BAS), and in consultation with state and federal agencies and other qualified professionals.

D. This Appendix will be administered with flexibility and attention to site-specific characteristics. It is not the intent of the city to make property unusable or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community.

1.02 ADMINISTRATIVE PROCEDURES

A. The administrative procedures followed during the critical area review process shall conform to the standards and requirements of the SMP. This shall include, but not be limited to, timing, appeals, exemptions, variances, and fees associated with applications covered by this Appendix.

1.03 APPLICABILITY

A. This Appendix establishes regulations for the protection of all properties that contain or are adjacent to critical areas within the shoreline jurisdiction as defined by the SMA.

B. Critical areas regulated by this Appendix include:

1. Wetlands as designated in SMP Appendix 2: Chapter 2 – Wetlands;
2. Critical aquifer recharge areas as designated in SMP Appendix 2: Chapter 3 – Critical Aquifer Recharge Areas;
3. Frequently flooded areas as designated in SMP Appendix 2: Chapter 4 – Frequently Flooded Areas;
4. Geologically hazardous areas as designated in SMP Appendix 2: Chapter 5 – Geologically Hazardous Areas; and
5. Fish and wildlife habitat conservation areas as designated in SMP Appendix 2: Chapter 6 – Fish and Wildlife Habitat Conservation Areas; and
6. Critical saltwater habitat areas as designated in SMP Appendix 2: Chapter 7 – Critical Saltwater Habitats.

C. All areas within the city's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are designated critical areas and are subject to the provisions of this Appendix.

D. Properties classified as critical areas are those so designated on the resource maps referenced in this Appendix, or by separate studies, which indicate that all or portions of a particular area or specific site are environmentally sensitive or critical areas. A site-specific analysis prepared by a qualified professional that indicates that any element regulated by this Appendix is present will result in the classification of a property as an environmentally sensitive critical area.

E. Land uses or developments in the shoreline jurisdiction proposed on or adjacent to sites which are critical areas shall comply with the provisions of this Appendix. Adjacency shall be determined by BAS.

F. Critical area buffers located outside of the shoreline jurisdiction are regulated under WMC Chapter 15.34: Critical Areas Ordinance.

1.04 BEST AVAILABLE SCIENCE

A. Critical area reports and decisions to alter critical areas shall rely on BAS to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat. Herrera Environmental Consultants prepared a Summary of Best Available Science report (Herrera, 2015) for the city, which included a synthesis of BAS current as of the date of the final report.

B. BAS is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or a team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

C. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area, leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the city shall:

   1. Take a precautionary or a no-risk approach that strictly limits development activities until the uncertainty is sufficiently resolved; and

2. Require an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area.

1.05 ALLOWED ACTIVITIES

A. Critical Area Report. Activities allowed under this Appendix shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The Shoreline Administrator may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this Appendix to protect critical areas.

B. Required Use of BMPs. All allowed activities shall be conducted using the BMPs, adopted pursuant to the applicable city stormwater management programs and regulations, that result in the least amount of impact to the critical areas. BMPs shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of BMPs to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Allowed Activities. The following activities are allowed, while a shoreline permit may still be required:

1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both SMP permit approvals and construction approvals if all of the following conditions have been met:

   a. The provisions of this Appendix have been previously addressed as part of another approval;

   b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;

   c. There is no new information available that is applicable to any critical area review of the site or particular critical area;

d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

2. Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

3. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:

   a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas;

   b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance; and

   c. All impacts shall be fully mitigated;

4. Minor Utility Projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the Shoreline Administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area, if such projects are constructed with BMPs and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

   a. There is no practical alternative to the proposed activity with less impact on critical areas;

b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and

c. The activity involves disturbance of an area less than 75 square feet;

5. Public and Private Pedestrian Trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

   a. The trail surface shall meet all other requirements including water quality standards set forth in the applicable city stormwater management programs and regulations;

   b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

   c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report;

   d. All impacts are fully mitigated;

6. Select Vegetation Removal Activities. The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the Shoreline Administrator:

   a. The removal of the following vegetation with hand labor and light equipment:

      1) Invasive and noxious weeds;

      2) English Ivy (Hedera helix);

      3) Himalayan blackberry (Rubus discolor, R. procerus); and

      4) Evergreen blackberry (Rubus laciniatus).

   b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:

      1) The applicant submits a report from a certified arborist, registered landscape architect, or professional forester, or other professional that is approved by the Director, that documents the hazard and provides a replanting schedule for the replacement trees;

2) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;

3) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;

4) The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

5) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods or removal that will minimize impacts; and

6) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from city. Within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this Appendix.

c. Measures to control a fire or halt the spread of disease or damaging insects conducted or directed by a governmental agency consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan;

d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited; and

e. The removal of vegetation with hand labor and light equipment from a critical area or its buffer to the minimum extent necessary to provide access to established utilities, including water, sewer, power, cable, and drainage facilities, for maintenance and repair activities;

7. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city, provided that their use shall be restricted in accordance with WDFW Management Recommendations and the regulations of the Washington State Department of Agriculture and the EPA;
8. Minor Site Investigative Work. Work necessary for SMP permit submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and
9. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.

1.06 CRITICAL AREA PROJECT REVIEW PROCESS

A. General Requirements

1. As part of this review, the city shall:
   a. Verify the information submitted by the applicant;
   b. Evaluate the project area and vicinity for critical areas;
   c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
   d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
2. If the proposed project is within, adjacent to, or is likely to impact a critical area, the city shall:
   a. Require a critical area report from the applicant that has been prepared by a qualified professional;

b. Review and evaluate the critical area report;

c. Determine whether the development proposal conforms to the purposes and performance standards of this Appendix, including the review criteria in SMP Appendix 2: Section 1.08(B);

d. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and

e. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Appendix.

B. Critical Area Pre-Application Consultation

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this Appendix may conduct a consultation meeting with the Shoreline Administrator prior to submitting an application for development or other approval. Critical area pre-application consultation meetings are strongly encouraged. At this meeting, the Shoreline Administrator shall discuss the requirements of this Appendix; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

C. Critical Area Identification Form

1. Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under SMP Section 7.04.04 or allowed pursuant to SMP Appendix 2: Section 1.05, the applicant shall submit to the Shoreline Administrator a complete critical area identification form provided by the city.

2. Site Inspection. Upon receipt of a project application and a critical area identification form, the Shoreline Administrator shall conduct a site inspection to review critical area conditions on site. The Shoreline Administrator shall notify the property owner of the inspection prior to the site visit. The property owner shall provide reasonable access to the site for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

3. Critical Area Identification Form Review Process. The Shoreline Administrator shall review the critical area identification form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

    a. Decision Indicators. The Shoreline Administrator may use the following indicators to assist in determining the need for a critical area report:

        1) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;

        2) Information and scientific opinions from appropriate agencies, including but not limited to Ecology, WDFW, and WDNR;

        3) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or

        4) A finding by a qualified professional or a reasonable belief by the Shoreline Administrator that a critical area may exist on or adjacent to the site of the proposed activity.

4. Decision on Identification Form.

    a. No Critical Areas Present. If after a site visit the Shoreline Administrator's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the Shoreline Administrator shall rule that the critical area review is complete. The Shoreline Administrator shall note on the identification form the reasons that no further review is required. A summary of this information shall be included in any decision on the underlying permit.

    b. Critical Areas Present, But No Impact – Waiver. If the Shoreline Administrator determines there are critical areas within or adjacent to the project area, but the BAS shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the Shoreline Administrator may waive the requirement for a critical area report. The Shoreline Administrator may consult with a qualified professional to provide subject matter expertise in making this determination. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

1) There will be no alteration of the critical area or buffer;

2) The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Appendix; and

3) The proposal is consistent with other applicable regulations and standards.

A summary of this analysis and the findings shall be included in any decision on the underlying permit.

c. Critical Areas May Be Affected by Proposal. If the Shoreline Administrator determines that a critical area or areas may be affected by the proposal, then the Shoreline Administrator shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

5. Shoreline Administrator's Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the Shoreline Administrator is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

   If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

D. Public Notice of Initial Determination

The city shall notify the public of proposals in accordance with SMP Section 7.03.

1. If the Shoreline Administrator determines that no critical area report is necessary, the city shall state the reasons for this determination in the notice of application issued by the city for the proposal.
2. If the Shoreline Administrator determines that the proposed project is unlikely to impact critical areas on the site and the project has been granted a waiver from the requirement to complete a critical area report, then a summary of the analysis and findings for this decision shall be stated in the notice of application for the proposal.
3. If the Shoreline Administrator determines that critical areas may be affected by the proposal and a critical area report is required, public notice of the application shall

include a description of the critical area that might be affected and state that a critical area report is required.

1.07 CRITICAL AREA REPORT

A. Critical Area Report – Requirements

1. Preparation by Qualified Professional. If required by the Shoreline Administrator in accordance with SMP Appendix 2: Section 1.06(C), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.
2. Incorporating of Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Appendix.
3. Minimum Report Contents. At a minimum, the report shall contain the following:
    a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
    b. A copy of the site plan for the development proposal including:
        1) A vicinity map;
        2) A map to scale depicting delineated and surveyed critical areas, required buffers including buffers for off-site critical areas that extend onto the project site, the development proposal, any areas to be cleared and areas of proposed impacts to critical areas and/or buffers (include square footage estimates); and
        3) A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;
    c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

d. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

e. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

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

g. An analysis of site development alternatives including a no development alternative;

h. A description of reasonable efforts made to apply mitigation sequencing pursuant to SMP Appendix 2: Section 1.07(D) to avoid, minimize, and mitigate impacts to critical areas;

i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with SMP Appendix 2: Section 1.07(E), including, but not limited to:

   1) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

   2) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

j. A discussion of the performance standards applicable to the critical area and proposed activity;

k. Financial guarantees to ensure compliance; and

l. Any additional information required for the critical area as specified in the corresponding chapter of this Appendix.

4. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Shoreline Administrator.

B. Critical Area Report – Modifications to Requirements

1. Limitations to Study Area. The Shoreline Administrator may limit the required geographic area of the critical area report as appropriate if:

a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or

b. The proposed activity will affect only a limited part of the subject site.

2. Modifications to Required Contents. The applicant may consult with the Shoreline Administrator prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to address the potential critical area impacts and required mitigation adequately.

3. Additional Information Requirements. The Shoreline Administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this Appendix. Additional information that may be required, includes, but is not limited to:

a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;

b. Grading and drainage plans; and

c. Information specific to the type, location, and nature of the critical area.

C. Mitigation Requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Appendix, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal shall be mitigated using BAS in accordance with an approved critical area report and SEPA documents, to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after city approval of a critical area report, which includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

D. Mitigation Sequencing

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time at the time of the initiation of the project;
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures.

E. Mitigation Plan Requirements

When mitigation is required, the applicant shall comply with SMP Section 4.03 and submit for approval by city a mitigation plan as part of the critical area report. The mitigation plan shall include:

1. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

b. A review of the BAS supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

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

2. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Appendix have been met.

3. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

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

   b. Grading and excavation details;

   c. Erosion and sediment control features;

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

   e. Measures to protect and maintain plants until established.

   These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome.

4. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document

milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

5. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

6. Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with SMP Appendix 2: Section 1.10(F).

F. Innovative Mitigation

1. The city may encourage, facilitate, and approve innovative mitigation projects that are based on the BAS. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
   a. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
   b. The group demonstrates the organizational and fiscal capability to act cooperatively;
   c. The group demonstrates that long-term management of the habitat area will be provided; and
   d. There is a clear potential for success of the proposed mitigation at the identified mitigation site.
2. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

1.08 DETERMINATION PROCESS

A. Determination

The Shoreline Administrator shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this Appendix. The Shoreline Administrator's determination shall be based on the criteria of SMP Appendix 2: Section 1.08(B).

B. Review Criteria

1. Any alteration to a critical area, unless otherwise provided for in this Appendix, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:
    a. The proposal minimizes the impact on critical areas in accordance with SMP Appendix 2: Section 1.07(D);
    b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
    c. The proposal is consistent with the general purposes of this Appendix and the public interest;
    d. Any alterations permitted to the critical area are mitigated in accordance with SMP Appendix 2: Section 1.07(C);
    e. The proposal protects the critical area functions and values consistent with the BAS and results in no net loss of critical area functions and values; and
    f. The proposal is consistent with other applicable regulations and standards.
2. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Appendix.
3. Except as provided for by this Appendix, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in SMP Appendix 2: Section 1.07(D) shall be denied.

C. Favorable Determination

1. If the Shoreline Administrator determines the proposed activity meets the criteria in SMP Appendix 2: Section 1.08(B) and complies with the applicable provisions of this Appendix, the Shoreline Administrator shall prepare a written notice of

determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the city's review of the proposed activity in accordance with any other applicable codes or regulations.

2. Any conditions of approval included in a notice of determination shall be attached to the underlying shoreline permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the Shoreline Administrator.
3. A favorable determination should not be construed as endorsement or approval of any underlying shoreline permit or approval.

D. Unfavorable Determination

1. If the Shoreline Administrator determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in SMP Appendix 2: Section 1.08(B) and the provisions of this Appendix, the Shoreline Administrator shall prepare written notice of the determination that includes findings of noncompliance. No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this Appendix.
2. Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this Appendix, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the Shoreline Administrator may reopen the critical area review and make a new determination based on the revised report.

E. Completion of the Critical Area Review

1. The city's determination regarding critical areas pursuant to this Appendix shall be final concurrent with the final decision to approve, condition, or deny the shoreline development proposal or other activity involved.

F. Appeals

1. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this Appendix may be appealed according to the appeal procedure the appeal procedure for the permit or approval involved.

1.09 UNAUTHORIZED ALTERATIONS AND ENFORCEMENT

A. Unauthorized Critical Area Alterations and Enforcement

1. When a critical area or its buffer has been altered in violation of this Appendix, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Appendix.
2. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by city. Such a plan shall be prepared by a qualified professional using BAS and shall describe how the actions proposed meet the minimum requirements described in SMP Appendix 2: Section 1.09(A)(3). The Shoreline Administrator shall seek expert advice in determining the adequacy of the plan at the violator's expense. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
3. Minimum Performance Standards for Restoration
    a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, habitat conservation areas and critical saltwater habitats, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
        1) The historic structural and functional values shall be restored, including water quality and habitat functions;
        2) The historic soil types and configuration shall be replicated;
        3) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes,

and densities. The historic functions and values should be replicated at the location of the alteration; and

4) Information demonstrating compliance with the requirements in SMP Appendix 2: Section 1.07(E) shall be submitted to the Shoreline Administrator.

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

1) The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

2) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

3) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

4. Site Investigations. The Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Appendix. The Shoreline Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Appendix shall be penalized under the provisions of SMP Section 7.08.02.

1.10 GENERAL CRITICAL AREA PROTECTIVE MEASURES

A. Critical Area Markers and Signs

1. Temporary markers. The outer perimeter of the critical area buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that unauthorized intrusion will not occur. The marking is subject to inspection by the Shoreline Administrator prior to the commencement of permitted activities. This

temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Fencing installed as part of a proposed activity or as required in SMP Appendix 2: Section 1.10(A)(1) shall be designed to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

3. Permanent signs. As a condition of any permit or authorization issued pursuant to this Chapter, the Shoreline Administrator may require the applicant to install permanent signs along the boundary of a critical area or buffer.

   a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Shoreline Administrator:

Protected Area

Do Not Disturb

Contact the city of Westport

Regarding Uses, Restrictions, and Opportunities for Stewardship

   b. The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

B. Notice on Title

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county records and elections division according to the direction of the city. The notice shall state the presence of the critical area or buffer on the property, the application of this Appendix to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

2. This Notice on Title shall not be required for a development proposal by a public agency or public or private utility:
    a. Within a recorded easement or right-of-way;
    b. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
    c. On the site of a permanent public facility.
3. The applicant shall submit proof that the notice has been filed for public record before the city approves any SMP permit.

C. Native Growth Protection Areas

1. Unless otherwise required in this Appendix, native growth protection areas shall be used in development proposals in the shoreline jurisdiction for long subdivisions, short subdivisions, master plan developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:
    a. All landslide hazard areas and buffers;
    b. All wetlands and buffers;
    c. All habitat conservation areas; and
    d. All other lands to be protected from alterations as conditioned by project approval.
2. Native growth protection areas shall be recorded on all documents of title of record for all affected lots.
3. Native growth protection areas shall be designated on the face of the plat or in a recorded drawing in a format approved by the City Attorney. The designation shall include the following restrictions:
    a. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
    b. The right of the city to enforce the terms of the restriction.

D. Critical Area Tracts

1. Critical area tracts shall be used in development proposals in the shoreline jurisdiction for long subdivisions, short subdivisions, master plan developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below that total 5,000 or more square feet:
    a. All landslide hazard areas and buffers;
    b. All wetlands and buffers;
    c. All habitat conservation areas; and
    d. All other lands to be protected from alterations as conditioned by project approval.
2. Critical area tracts shall be recorded on all documents of title of record for all affected lots.
3. Critical area tracts shall be designated on the face of the plat or recorded as a drawing in a format approved by the City Attorney. The designation shall include the following restriction:
    a. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
    b. The right of the city to enforce the terms of the restriction.
4. The city may require that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity.

E. Building Setbacks

Unless otherwise provided, buildings and other structures shall be set back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

1. Landscaping;

2. Uncovered decks;
3. Building overhangs, if such overhangs do not extend more than eighteen (18) inches into the setback area; and
4. Impervious ground surfaces, such as driveways and patios, if such improvements are subject to applicable city stormwater management programs and regulations.

F. Bonds to Ensure Mitigation, Maintenance, and Monitoring

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.
2. The bond shall be for 125% of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.
3. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the City Attorney.
4. Bonds or other security authorized by this Section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
5. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
6. Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
7. Any failure to satisfy critical area requirements that were established by law or condition including, but not limited to, the failure to provide a monitoring report

within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default. The city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

8. Any funds recovered pursuant to this Section shall be used to complete the required mitigation.

G. Critical Area Inspections

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

2 WETLANDS

2.01 PURPOSE

A. The purpose of this Section includes the following:

1. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; stabilizing shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.
2. Regulate land use in the shoreline jurisdiction to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the city's shoreline jurisdiction.
3. Establish review procedures for development proposals in and adjacent to wetlands.

2.02 WETLAND IDENTIFICATION AND DELINEATION

A. Identification of wetlands and delineation of their boundaries pursuant to this Section shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the shoreline jurisdiction of the city meeting the wetland designation criteria in that procedure are designated critical areas and are subject to the provisions of this Appendix. Wetland delineations are valid for five years; after such date, the city shall determine whether a revision or additional assessment is necessary.

2.03 WETLAND RATING

A. Wetlands shall be rated in accordance with *Washington State Wetland Rating System for Western Washington: 2014 Update*, 2014, Ecology Publication No. 14-06-029, as revised and approved by Ecology, which contains the definitions and methods for determining whether the criteria below are met.

1. Category I Wetlands. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by their special characteristics and/or a total rating system score of 23 to 27 points or more on the Ecology rating forms. These wetland communities of infrequent occurrence often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.
2. Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands have significant value based on their function as indicated by their special characteristic and/or a total rating system score of between 20 and 22 points on the Ecology rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.
3. Category III Wetlands. Category III wetlands are 1) wetlands with a moderate level of functions (scores between 16-19 points), 2) can often be adequately replaced with a well-planned mitigation project, and 3) interdunal wetlands between 0.1 and 1 ac in size. Wetlands scoring between 16-19 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
4. Category IV Wetlands. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These wetlands may be able to replaced and in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and need to be protected. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

B. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

2.04 REGULATED ACTIVITIES

A. For any regulated activity, a critical areas report for wetlands as defined in SMP Appendix 2: Chapter 2.07 may be required by the Shoreline Administrator to support the requested activity.

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

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
2. The dumping of, discharging of, or filling with any material.
3. The draining, flooding, or disturbing of the water level or water table.
4. Pile driving.
5. The placing of obstructions.
6. The construction, reconstruction, demolition, or expansion of any structure.
7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
8. Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.
9. Activities that result in:
    a. A significant change of water temperature;
    b. A significant change of physical or chemical characteristics of the sources of water to the wetland;
    c. A significant change in the quantity, timing, or duration of the water entering the wetland; or
    d. The introduction of pollutants.

C. The subdivision or short subdivision of land in wetlands and associated buffers are subject to the following:

1. Land that is located wholly within a wetland or its buffer may not be subdivided for development; and
2. Land that is located partially within a wetland or its buffer may be subdivided for development provided that an accessible and contiguous portion of each new lot is:
   a. Located outside of the wetland and its buffer; and
   b. It meets the minimum lot size requirements of WMC Title 17: Zoning.

2.05 EXEMPTIONS AND ALLOWED USES IN WETLANDS

A. The following wetlands are exempt from the buffer provisions contained in this Section and the normal mitigation sequencing process in SMP Appendix 2: Section 2.08. These wetlands may be filled if impacts are fully mitigated based on provisions in SMP Appendix 2: Section 2.08. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in SMP Appendix 2: Section 2.07 must be submitted.
   1. All isolated Category III and IV wetlands less than 1,000 square feet that:
      a. Are not associated with riparian areas or buffers;
      b. Are not part of a wetland mosaic; and
      c. Do not contain habitat identified as essential for local populations of priority species identified by the WDFW or species of local importance identified in SMP Appendix 2: Section 6.02.

B. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
   1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
   2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

3. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, if the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
4. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and disposed of appropriately. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
5. Educational and scientific research activities.
6. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, if the maintenance or repair does not expand the footprint of the facility or improved right-of-way.

2.06 WETLAND BUFFERS

A. A wetland buffer that separates a wetland from a development is required. The purpose of the buffer is to mitigate adverse impacts of development activities and future use on the wetland. The width and character of buffers shall be as necessary to protect the identified functions and values of the wetland from impacts associated with the specific type and character of the proposed development activities and use of the property in accordance with the BAS.

B. The standard wetland buffer widths in SMP Appendix 2: Table 2-1: Wetland Buffer Requirements have been established in accordance with the BAS. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for western Washington.

1. The use of the standard buffer widths requires the implementation of the measures in SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands, where applicable, to minimize the impacts of the adjacent land uses.
2. If an applicant chooses not to apply the mitigation measures in SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands, then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
3. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community, or the buffer should be widened to ensure that adequate functions of the buffer are provided.
4. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 8 points for habitat function would require a buffer of 225 feet (75 feet (Standard Buffer) + 150 feet (Additional Buffer Width if Wetland Scores 8-9 Habitat Points)).

Westport SMP Update – Draft Approved by City Council
SMP Appendix 2: Critical Areas Regulations

SMP Appendix 2: Table 2-1: Wetland Buffer Requirements

Wetland Category	Standard Buffer Width (3-4 Habitat Points)	Additional Buffer Width if Wetland Scores 5 Habitat Points	Additional Buffer Width if Wetland Scores 6-7 Habitat Points	Additional Buffer Width if Wetland Scores 8-9 Habitat Points
Category I:				
Based on total score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Bogs and Wetlands of High Conservation Value	190 feet			Add 35 feet
Coastal Lagoons	150 feet		Add 15 feet	Add 75 feet
Interdunal	(N/A)	N/A	N/A	225 feet
Forested	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Estuarine	150 feet (habitat scores not applicable)			
Category II:				
Based on score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Interdunal Wetlands	110 feet		N/A	N/A
Estuarine Wetlands	110 feet		N/A	N/A
Category III:				
Based on score	60 feet	Add 45 feet	Add 105 feet	Add 165 feet
Interdunal wetlands	60 feet	N/A	N/A	N/A
Category IV (all)	40 feet (habitat scores not applicable)			

SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts (1)
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially

Disturbance	Required Measures to Minimize Impacts (1)
	disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use BMPs to control dust
Disruption of corridors or connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

Note:

(1) Measures are required, where applicable to a specific proposal

5. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Shoreline Administrator when a larger wetland buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

   a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive,

monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;

b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

6. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

   a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area;

   b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional;

   c. The total area of the buffer after averaging is equal to the area required without averaging; and

   d. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

7. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

   a. There are no feasible alternatives to the proposed site design that could be accomplished without buffer averaging;

   b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional;

   c. The total buffer area after averaging is equal to the area required without averaging; and

d. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

C. Measurement of Wetland Buffers. All wetland buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

D. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this Section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

E. Buffer Maintenance. Except as otherwise specified, or allowed in accordance with this Section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

F. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in SMP Appendix 2: Section 2.08.

G. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap, such as buffers for a shoreline and a wetland, the wider buffer applies.

H. Allowed Wetland Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the wetland buffer and adjacent wetland:

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

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

   a. Walkways and trails provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25% of the wetland

buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

b. Wildlife-viewing structures.

3. Educational and scientific research activities.
4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, if the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, if the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and disposed of properly. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
8. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:

   a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland.

9. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

2.07 CRITICAL AREA REPORT FOR WETLANDS

A. Preparation by a Qualified Professional. A qualified professional shall prepare a wetland critical area report.

B. Minimum Standards for Wetland Reports. A wetland report consists of a written report and accompanying plan sheets:

1. In addition to the requirements of SMP Appendix 2: Section 1.07(A), a wetlands report shall include at a minimum:

a. Identification of all the local, state, and/or federal wetland-related permit(s) required for the project.

b. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

c. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses including references.

d. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information.

e. For each wetland identified on site and within 300 feet of the project site the following needs to provide:

1) The wetland rating, including a description of and score for each function, per Wetland Ratings (SMP Appendix 2: Section 2.03);

2) Required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions);

3) Cowardin classification of vegetation communities;

4) Habitat elements;

5) Soil conditions based on site assessment and/or soil survey information;

6) Hydrologic information to the extent possible such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.); and

7) Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

f. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey.

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

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

i. An evaluation of the functions of the wetland and adjacent buffer that includes reference for the method used and data sheets.

2.08 MITIGATION REQUIREMENTS

A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the actions listed in SMP Appendix 2: Section 1.07(D) have been taken.

B. Requirements for Compensatory Mitigation:

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1*, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised), and

Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

2. Mitigation ratios shall be consistent with SMP Appendix 2: Section 2.08(H).

C. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

1. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.

D. Preference of Mitigation Actions. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

1. Restoration (re-establishment and rehabilitation) of wetlands:
    a. The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
    b. The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
2. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
    a. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of

a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

1) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
2) The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;
3) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and
4) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:
   a. How the proposed enhancement will increase the wetland's/buffer's functions;
   b. How this increase in function will adequately compensate for the impacts; and
   c. How all other existing wetland functions at the mitigation site will be protected.
4. Preservation. Preservation of high quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, if a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved.
5. Preservation of high quality at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

a. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:

   1) Category I or II wetland rating (using the wetland rating system for western Washington);

   2) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands);

   3) The presence of habitat for priority or locally important wildlife species; and

   4) Priority sites in an adopted watershed plan.

b. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species.

c. There is no net loss of habitat functions within the watershed or basin.

d. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

e. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.

f. The impact area is small (generally <½ acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

g. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

E. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of SMP Appendix 2: Section 2.08(E)(1 – 4) below applies. In that case, mitigation may be allowed off-site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank or advanced mitigation.

   1. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for

wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate wildlife impacts (such as connectivity).

2. On-site mitigation would require elimination of high-quality upland habitat.
3. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
4. Off-site locations shall be in the same sub-drainage basin unless:
    a. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or
    b. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument.

F. Compensatory Mitigation Project Design. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

G. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

1. The Shoreline Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the city.

H. Wetland Mitigation Ratios:

SMP Appendix 2: Table 2-3: Wetland Mitigation Ratios[1]

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I:			
Bog, Natural Heritage site	Not Considered Possible	Case by case	Case by case
Mature Forested	6:1	12:1	24:1
Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

Interdunal wetlands are not an option for enhancement per *Wetlands in Washington State Appendix 8-C Volume 2 – Protecting and Managing Wetlands – Western Washington April 2005.*

[1] Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1a, *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1,* (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised). See also SMP Appendix 2: Section 2.08(D)(4) for more information on using preservation as compensation.

I. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

1. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Minimum Standards for Wetland Reports (SMP Appendix 2: Section 2.07(b)).

2. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in *Washington State– Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

    a. The written report must contain, at a minimum:

        1) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

        2) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

        3) Description of the existing wetland and buffer areas proposed to be altered. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also, describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on Wetland Ratings found in SMP Appendix 2: Section 2.03.

        4) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are

not undertaken, such as how this site would progress through natural succession.

5) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

6) A description of the proposed mitigation construction activities and timing of activities.

7) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs for remaining wetlands and compensatory mitigation wetlands.

8) A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

9) Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

1) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

2) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be altered, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.

3) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored

compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

4) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

5) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Section.

6) A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation.

7) Performance standards in terms of measurable standards reflective of years post-installation for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.

J. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

K. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract or a conservation easement.

L. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

M. Wetland Mitigation Banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

a. The bank is certified under state rules;

b. The Shoreline Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

N. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.

O. Alternative Mitigation Plans. The Shoreline Administrator may approve alternative critical areas mitigation plans that are based on BAS, such as priority restoration plans that achieve restoration goals identified in the SMP and Restoration Plan. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this Section.

The Shoreline Administrator shall consider the following for approval of an alternative mitigation proposal:

1. The proposal uses a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)* (Ecology Publication #09-06-32, Olympia, WA, December 2009).

2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.

3. Mitigation according to Section E is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.

4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.

5. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall meet the provisions in SMP Appendix 2: Section 2.08(L) at a minimum.
6. The plan shall be reviewed and approved as part of overall approval of the proposed use.
7. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
8. Mitigation guarantees shall meet the minimum requirements as outlined in SMP Appendix 2: Section 2.08(I)(2)(a)(8).
9. Qualified professionals in each of the critical areas addressed shall prepare the plan.
10. The city may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

3 CRITICAL AQUIFER RECHARGE AREAS

3.01 DESIGNATION, RATING AND MAPPING

A. Critical Aquifer Recharge Areas Designation

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:

1. Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the ten year time of ground water travel or boundaries established using alternate criteria approved by the WDOH in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
2. Sole Source Aquifers. Sole source aquifers are areas that have been designated by the EPA pursuant to the Federal Safe Water Drinking Act.
3. Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to WAC 173-100.
4. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.
5. Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with Ecology guidelines.
6. Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by Ecology.

B. Aquifer Recharge Area Susceptibility Ratings

1. Aquifer recharge areas shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by Ecology.

C. Mapping of Critical Aquifer Recharge Areas

1. The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical areas maps.
2. The location and extent of Wellhead Protection areas are included in maps contained in the City's 2009 Wellhead Protection Plan.
3. These maps are to be used as a guide for the city, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

3.02 ALLOWED ACTIVITIES – CRITICAL AQUIFER RECHARGE AREAS

A. Activities Allowed in Critical Aquifer Recharge Areas

The following activities are allowed in critical aquifer recharge areas pursuant to SMP Appendix 2: Section 1.05(C) and do not require submission of a critical area report:

1. Construction of structures and improvements, including additions, resulting in less than five percent or 2,500 square feet, whichever is greater, total site impervious surface area that does not result in a change of use or increase the use of a hazardous substance.
2. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance.
3. On-site domestic septic systems releasing less than 800 gallons of effluent per day.

3.03 ADDITIONAL REPORT REQUIREMENTS – CRITICAL AQUIFER RECHARGE AREAS

A. Critical Area Report – Additional Requirements for Critical Aquifer Recharge Areas

In addition to the general critical area report requirements of SMP Appendix 2: Section 1.07, critical area reports for critical aquifer recharge areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

1. Preparation by a Qualified Professional. An aquifer recharge area critical area report shall be prepared by a qualified professional.
2. Hydrogeologic Assessment. For all proposed activities to be located in a critical aquifer recharge area, a critical area report shall contain a level one hydrogeological assessment. A level two hydrogeologic assessment shall be required for any of the following proposed activities:
    a. Activities that result in five percent or more impervious site area;
    b. Activities that divert, alter, or reduce the flow of surface or ground waters, or otherwise reduce the recharging of the aquifer;
    c. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
    d. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 800 gallons of effluent per day; or
    e. Any other activity determined by the Shoreline Administrator likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer.
3. Level One Hydrogeologic Assessment. A level one hydrogeologic assessment shall include the following site- and proposal-related information at a minimum:
    a. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
    b. Ground water depth, flow direction, and gradient based on available information;

c. Currently available data on wells and springs within 1,500 feet of the project area;

d. Location of other critical areas, including surface waters, within 1,500 feet of the project area;

e. Available historic water quality data for the area to be affected by the proposed activity; and

f. BMPs proposed to be utilized.

4. Level Two Hydrogeologic Assessment. A level two hydrogeologic assessment shall include the following site- and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeological assessment:

   a. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five year period;

   b. Ground water monitoring plan provisions;

   c. Discussion of the effects of the proposed project on the ground water quality and quantity, including:

      1) Predictive evaluation of ground water withdrawal effects on nearby wells and surface water features; and

      2) Predictive evaluation of contaminant transport based on potential releases to ground water; and

   d. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

3.04 PERFORMANCE STANDARDS – CRITICAL AQUIFER RECHARGE AREAS

A. Performance Standards – General Requirements

1. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

2. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Grays Harbor County Division of Environmental Health.
3. The proposed activity must be designed and constructed in accordance with the applicable city stormwater management programs and regulations.
4. New construction which relies on on-site septic systems shall not be allowed to exceed a density of one dwelling unit per acre, or an equivalent wastewater volume, except for the development of one dwelling on lots existing or vested by December 5, 1996, where the on-site septic system can comply with all environmental health department standards. For the purposes of this section, the sewage flow of one single-family dwelling equals one unit volume of sewage equals four hundred fifty gallons per day.

B. Performance Standards – Specific Uses

1. Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
   a. Underground Tanks. New underground storage facilities are not allowed within Critical Aquifer Recharge Areas. Any replacement of underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
      1) Prevent releases due to corrosion or structural failure for the operational life of the tank;
      2) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
      3) Use material in the construction or lining of the tank that is compatible with the substance to be stored.
   b. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

1) Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
2) Have a primary containment area enclosing or underlying the tank or part thereof; and
3) A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

2. Vehicle Repair and Servicing
   a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
   b. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by Ecology prior to commencement of the proposed activity.
3. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.
4. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by Ecology and WDOH.
   a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in Chapter 90.46.080(1) and Chapter 90.46.010(10) RCW. Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW.
   b. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.
5. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations

Westport SMP Update – Draft Approved by City Council
SMP Appendix 2: Critical Areas Regulations

SMP Appendix 2: Table 3-1: Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC
Hazardous Waste Generator *(Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)*	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146)
Oil and Gas Drilling	Chapter 332-12-450 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18 WAC

Activity	Statute – Regulation – Guidance
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

3.05 PROHIBITED USES

A. Uses Prohibited From Critical Aquifer Recharge Areas

The following activities and uses are prohibited in critical aquifer recharge areas:

1. New underground storage tanks;
2. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
3. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
4. Mining.
    a. Metals and hard rock mining; and
    b. Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;
5. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
6. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances; and
7. Other Prohibited Uses or Activities.
    a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
    b. Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream; and

c. Activities that are not connected to an available sanitary sewer system, prohibited from critical aquifer recharge areas associated with sole source aquifers.

4 FREQUENTLY FLOODED AREAS

4.01 APPLICABILITY

A. All development within the designated frequently flooded areas shall be managed in accordance with WMC Chapter 15. The critical areas provisions related to the flood damage prevention of Ordinance No. 844, dated 1989 and Ordinance No. 1441, dated 2008 (WMC 15.12) and the flood hazard management provisions of SMP Section 4.06 are hereby incorporated by reference.

5 GEOLOGICALLY HAZARDOUS AREAS

5.01 PURPOSE

A. Geologically hazardous areas are characterized by lot slope, soil type, geologic material, and ground water which may combine to create problems with slope stability, erosion and water quality during and after construction or during natural events such as tsunamis, earthquakes or excessive rain-storms. The following regulations, in combination with the performance standards for development, will guide development in geologically hazardous areas. The purpose of these regulations is to maintain the natural integrity of hazardous areas and their buffers in order to protect adjacent lands from the impacts of landslides, subsidence, excessive erosion, and seismic events, and to safeguard the public from these threats to life or property. Construction in geologically hazardous areas should be avoided when the potential risk to public health and safety cannot be reduced to a level comparable to the risk if the site were stable.

5.02 DESIGNATION, CLASSIFICATION, AND MAPPING – GEOLOGICALLY HAZARDOUS AREAS

A. Designation of Geologically Hazardous Areas

1. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use.
2. The entire city is susceptible to widespread and damaging effects of Cascadia event seismic and tsunami hazards. Aside from the Cascadia event scenario, the city is prone to four primary geological hazards. Areas in the city susceptible to one or more of these four primary geological hazards, which do not consider the extreme effects of a Cascadia event, shall be designated as a geologically hazardous area:
    a. Erosion hazard;
    b. Landslide hazard;

c. Seismic hazard;

d. Tsunami hazard.

B. Designation of Specific Hazard Areas

1. Erosion Hazard Areas. Erosion hazard areas are those areas identified by the following:

   a. Any area containing soil or soil complexes described or mapped within the USDA/Soil Conservation Service Soil Survey for Grays Harbor County as having a severe to very severe erosion hazard potential;

   b. Areas susceptible to wind erosion (aeolian erosion) identified as having soil types of Dunelands, Netarts, fine sand, and Westport fine sand;

   c. Areas subject to wave erosion identified as those properties within shorelands associated with the Pacific Ocean and Grays Harbor.

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

   a. Areas of historic failures, such as:

      1) Those areas delineated by the USDA's Natural Resources Conservation Service as having a "severe" limitation for building site development;

      2) Those areas mapped by Ecology (Coastal Zone Atlas) or WDNR (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5);

      3) Areas designated as landslides on maps published by the USGS or WDNR; or

      4) Areas mapped in the *Landslide and Liquefaction Maps for the Ocean Shores and Westport Peninsulas, Grays Harbor County, Washington: Effects on Tsunami Inundation Zones of a Cascadia Subduction Zone Earthquake* by the Washington Division of Geology and Earth Resources Report of Investigations.

   b. Areas with all three of the following characteristics:

1) Slopes steeper than 15%;
2) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
3) Springs or ground water seepage.

c. Areas potentially unstable because of rapid stormwater runoff, soil saturation, and undercutting by wave action; or

d. Any area with a slope of 40% or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief.

3. Seismic Hazard Areas. While a Cascadia event would likely cause expansive and extreme damage to the entire area, a non-Cascadia event would affect particular identified seismic hazard areas, which can be addressed through protective regulatory measures to safeguard the public. Seismic hazard areas are areas subject to severe risk of damage because of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

   a. The magnitude of an earthquake;
   b. The distance from the source of an earthquake;
   c. The type of thickness of geologic materials at the surface; and
   d. The type of subsurface geologic structure.

   Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

4. Tsunami Hazard Areas. While a Cascadia event would likely cause expansive and extreme damage to the entire area, a non-Cascadia event would affect particular identified tsunami hazard areas, which can be addressed through protective regulatory measures to safeguard the public. Tsunami hazard areas are coastal

areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events.

5. Based on a review of BAS, the city has concluded that no areas of the city require regulation for protection from mine hazards or volcanic hazards.

C. Mapping of Geologically Hazardous Areas

1. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical areas maps include:
   a. Coastal Zone Atlas (for marine bluff hazards);
   b. U.S. Geological Survey landslide hazard and seismic hazard maps;
   c. WDNR seismic hazard maps for Western Washington, including Liquefaction Susceptibility Map of Grays Harbor County, Washington;
   d. WDNR slope stability maps;
   e. National Oceanic and Atmospheric Administration tsunami hazard maps;
   f. FEMA flood insurance maps;
   g. Landslide and Liquefaction Maps for the Ocean Shores and Westport Peninsulas, Grays Harbor County, Washington;
   h. Tsunami Hazard Map of the Southern Washington Coast by WDNR; and
   i. Locally adopted maps.
2. These maps are to be used as a guide for the city, project applicants, and property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

5.03 ALLOWED ACTIVITIES – GEOLOGICALLY HAZARDOUS AREAS

A. Activities Allowed in Geologically Hazardous Areas

The following activities are allowed in geologically hazardous areas pursuant to SMP Appendix 2: Section 1.05 and do not require submission of a critical area report:

1. Erosion and Landslide Hazard Areas. Except as otherwise provided for in this Appendix, only those activities approved and permitted consistent with an approved

critical area report in accordance with this Appendix shall be allowed in erosion or landslide hazard areas.

2. Seismic Hazard Areas. The following activities are allowed within seismic hazard areas pursuant to WMC 15.34.120 and do not require submission of a critical area report:
   a. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
   b. Additions to existing single-story residences that are 250 square feet or less; and
   c. Installation of fences.
3. Tsunami Hazard Areas. The following activities are allowed within tsunami hazard areas pursuant to WMC 15.34.120 and do not require submission of a critical area report:
   a. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
   b. Additions to existing residences that are two hundred fifty square feet or less;
   c. Installation of fences; and
   d. Construction that does not require a permit from the city, such as patios, fire pits, or small sheds.

5.04 CRITICAL AREA REPORT REQUIREMENTS – GEOLOGICALLY HAZARDOUS AREAS

A. Critical Area Report – Additional Requirements for Geologically Hazardous Areas

1. Preparation by a Qualified Professional. A critical areas report for a geologically hazardous area shall be prepared by a qualified professional.
2. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for geologically hazardous areas:
   a. The project area of the proposed activity; and

b. All geologically hazardous areas within 200 feet of the project area or that have potential to be affected by the proposal;

3. Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

   a. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:

      1) The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within 200 feet of, or that are likely to impact the proposal;

      2) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;

      3) The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and

      4) Clearing limits;

   b. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

      1) A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

      2) A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

      3) A description of the vulnerability of the site to seismic and other geologic events;

c. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties; and

d. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

4. Incorporation of Previous Study. Where a valid critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

5. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

B. Critical Area Report – Additional Technical Information Requirements for Specific Hazards

In addition to the general critical area report requirements of SMP Appendix 2: Section 1.07(A) and SMP Appendix 2: Section 5.04(A), critical area reports for geologically hazardous areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

1. Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

a. Site Plan. The critical area report shall include a copy of the site plan for the proposal showing:

1) The height of slope, slope gradient, and cross-section of the project area;
2) The location of springs, seeps, or other surface expressions of ground water on or within 200 feet of the project area or that have potential to be affected by the proposal; and
3) The location and description of surface water runoff features;

b. Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:

1) A description of the extent and type of vegetative cover;
2) A description of subsurface conditions based on data from site-specific explorations;
3) Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
4) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
5) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
6) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
7) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
8) Recommendations for building siting limitations; and
9) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

c. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

1) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

2) Recommendations for drainage and subdrainage improvements;

3) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

4) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;

d. Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the applicable city stormwater management programs and regulations;

e. Drainage Plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the applicable city stormwater management programs and regulations. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

f. Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and

g. Monitoring Surface Waters. If the Shoreline Administrator determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the

site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city.

2. Seismic Hazard Areas. In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:
   a. The site map shall show all known and mapped faults within 200 feet of the project area or that have potential to be affected by the proposal.
   b. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).
   c. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.
3. Tsunami Hazard Areas. In addition to the basic report requirements, a critical area report for a tsunami hazard area shall also meet the following requirements:
   a. Site Plan. The site plan shall show all areas within 200 feet of the project area that have potential to be inundated by wave action derived from a seismic event;
   b. Hazards Analysis. The hazards analysis shall include a complete discussion of the potential impacts of the tsunami hazard on the site; and
   c. Emergency Management Plan. The emergency management plan shall include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
4. All Structures within 200 feet of winter marram grass line of the Pacific Ocean or OHWM of Grays Harbor. All structures that are within two hundred feet of the winter marram grass line of the Pacific Ocean and/or OHWM of Grays Harbor shall require a technical analysis performed by a qualified professional in shoreline erosion.
   a. The analysis shall include estimation of historic rate or character of erosion, the potential for future erosion, risks of erosion to proposed development on the

property and to the entire littoral system on the peninsula and measures to mitigate such risks.

b. The analysis shall also consider the impact of alternative methods of erosion management on public and private property in the vicinity and on the natural resource values of the site and vicinity.

c. The analysis shall be based on consideration of the BAS information applicable to the subject of wave erosion in the city and appropriate methods to achieve necessary protection.

d. Development in erosion hazard areas shall not be authorized unless measures to address any identified erosion hazard are incorporated in the plans for the project and the identified impacts of the measures to property and resources in the vicinity are minimized and mitigated.

5.05 PERFORMANCE STANDARDS – GEOLOGICALLY HAZARDOUS AREAS

A. Performance Standards – General Requirements

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

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

   b. Will not adversely impact other critical areas;

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

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

2. Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

B. Performance Standards – Specific Hazards

1. Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide hazards shall meet the standards of SMP Appendix 2: Section 5.05(A) and the specific following requirements:

a. Buffer Requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the Shoreline Administrator to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

   1) Minimum Buffer. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater;

   2) Buffer Reduction. The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the Shoreline Administrator's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.;

   3) Increased Buffer. The buffer may be increased where the Shoreline Administrator determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

b. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

   1) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

   2) The development will not decrease slope stability on adjacent properties; and

   3) Such alterations will not adversely impact other critical areas;

c. Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this Appendix. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

   1) The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for

dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code;

2) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

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

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

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

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

7) Development shall be designed to minimize impervious lot coverage;

d. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

e. Seasonal Restriction. Clearing shall be allowed only from May 1 to October 1 of each year provided that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the city or WDNR;

f. Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior;

g. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

1) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

2) Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

3) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;

h. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

1) Land that is located wholly within a landslide hazard area or its buffer may not be subdivided for development. Land that is located partially within a landslide hazard area or its buffer may be divided if each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer;

2) Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists; and

i. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

2. Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards of SMP Appendix 2: Section 5.05(A). All engineering plans submitted for a location within a mapped high liquefaction zone shall carry a stamp indicating the plans are being made in a high liquefaction zone.

3. Tsunami Hazard Areas. Activities on sites containing areas susceptible to inundation due to tsunamis hazards shall require an evacuation and emergency management plan. All engineering plans submitted for a location within a mapped tsunami zone

shall carry a stamp indicating the plans are being made in a tsunami zone. The city may use the performance standards for coastal high hazard areas as guidance in reviewing new structures proposed in tsunami hazard areas.

6 FISH AND WILDLIFE CONSERVATION HABITAT AREAS

6.01 PURPOSE

A. The city shall manage development and subsequent uses in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to prevent isolated subpopulations.

6.02 DESIGNATION AND MAPPING

A. Designation of Fish and Wildlife Habitat Conservation Areas

1. Fish and wildlife habitat conservation areas include:

   a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species have a Primary Association

      1) Federally designated endangered and threatened species are those fish and wildlife species identified by the USFWS and the NMFS that are in danger of extinction or threatened to become endangered. The USFWS and the NMFS should be consulted for current listing status.

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

      3) This Subsection shall not apply to hair seals and sea lions that are threatening to damage or are damaging commercial fishing gear being utilized in a lawful

manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

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

c. Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

d. Kelp and Eelgrass Beds and Herring and Smelt Spawning Areas. Kelp and eelgrass beds have been identified and mapped by WDNR in some areas. Herring and smelt spawning times and locations are outlined in WAC 220-660-310 and WAC 220-660-330.

e. Naturally Occurring Ponds under Twenty Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

f. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).

g. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by WDNR.

h. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by WDNR through the Natural Heritage Program.

i. Land Useful or Essential for Preserving Connections Between Habitat Blocks and Open Spaces.

2. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby-designated critical areas, are subject to the provisions of this Appendix, and shall be managed consistent with the BAS, such as WDFW's Management Recommendations for Priority Habitat and Species.

3. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the city, as most recently updated. The following critical area maps are hereby adopted:

   a. WDFW Priority Habitat and Species maps;

   b. Ecology Washington State Coastal Atlas;

   c. WDNR, Official Water Type Reference maps, as amended;

   d. WDNR ShoreZone Inventory;

   e. WDNR Natural Heritage Program mapping data;

   f. WDOH Annual Inventory of Shellfish Harvest Areas;

   g. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission;

   h. WDNR State Natural Area Preserves and Natural Resource Conservation Area maps; and

   i. City official habitat maps.

   These maps are to be used as a guide for the city, project applicants, and property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

6.03 ADDITIONAL REPORT REQUIREMENTS – HABITAT CONSERVATION AREAS

A. Critical Area Report – Additional Requirements for Habitat Conservation Areas

In addition to the general critical area report requirements of SMP Appendix 2: Section 1.07(A), critical area reports for habitat conservation areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.
2. Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:
    a. The project area of the proposed activity;
    b. All habitat conservation areas and recommended buffers within 300 feet of the project area; and
    c. All shoreline areas, floodplains, other critical areas, and related buffers within 300 feet of the project area.
3. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:
    a. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
    b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
    c. A discussion of any federal, state, or local special management recommendations, including WDFW habitat management recommendations,

that have been developed for species or habitats located on or adjacent to the project area;

d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

e. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with SMP Appendix 2: Section 1.07(D); and

f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the Shoreline Administrator may also require the habitat management plan to include:

   a. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

   b. A request for consultation with WDFW or the local Native American Indian Tribe or other appropriate agency; and

   c. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

6.04 PERFORMANCE STANDARDS

A. Performance Standards – General Requirements

1. Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this Appendix.

2. Non-indigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

3. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities. The Shoreline Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on BAS and may include, but are not limited to, the following:

    a. Establishment of buffer zones;

    b. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

    c. Limitation of access to the habitat area, including fencing to deter unauthorized access;

    d. Seasonal restriction of construction activities;

    e. Establishment of a duration and timetable for periodic review of mitigation activities; and

    f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the BAS.

7. Buffers.

a. Establishment of Buffers. The Shoreline Administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by WDFW. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection areas and critical area tracts in accordance with SMP Appendix 2: Section 1.10(C) and SMP Appendix 2: Section 1.10(D).

b. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

c. Habitat Buffer Averaging. The Shoreline Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the BAS, and the management recommendations issued by WDFW, only if:

1) It will not reduce stream or habitat functions;

2) It will not adversely affect salmonid habitat;

3) It will provide additional natural resource protection, such as buffer enhancement;

4) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

5) The buffer area width is not reduced by more than 25% in any location.

8. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that unauthorized intrusion will not occur and verified by the Shoreline Administrator prior to the commencement of permitted activities. This

temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any permit or authorization issued pursuant to this Chapter, the Shoreline Administrator may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

1) Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Shoreline Administrator:

Habitat Conservation Area

Do Not Disturb

Contact the City of Westport

Regarding Uses and Restriction

2) The provisions of SMP Appendix 2: Section 6.04(A)(8)(b)(1) may be modified by the Shoreline Administrator as necessary to assure protection of sensitive features or wildlife.

c. Fencing.

1) The Shoreline Administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Shoreline Administrator shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

2) The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

3) Fencing installed as part of a proposed activity or as required in this Subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

9. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

    a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided for development.

    b. Land that is located partially within a habitat conservation area or its buffer may be divided if the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of WDC Title 17: Zoning.

    c. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the city determines that no other feasible alternative exist and when consistent with this Appendix.

B. Performance Standards – Specific Habitats

1. Endangered, Threatened, and Sensitive Species.

    a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by WDFW or applicable state or federal agency.

    b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with WDFW for animal species, WDNR for plant species, and other appropriate federal or state agencies.

    c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a qualified professional shall develop a habitat management plan. Activities are adjacent to bald eagle sites when they are within 800 feet or within one half mile and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by WDFW.

2. Anadromous Fish

   a. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

      1) Activities shall be timed to occur only during the allowable work window as designated by WDFW for the applicable species;

      2) An alternative alignment or location for the activity is not feasible;

      3) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

      4) Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report, and

      5) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

   b. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be if allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

   c. Fills, when authorized by the SMP, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

3. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in SMP Appendix 2: Chapter 2. If non-wetlands habitat and wetlands are present at the same location, the provisions of this Chapter or SMP Appendix 2: Chapter 2, whichever provides greater protection to the habitat, applies.

4. Riparian Habitat Areas. Unless otherwise allowed in this Appendix, all structures and activities shall be located outside of the riparian habitat area.

a. Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to perennial or intermittent streams, seeps, and springs.

b. Riparian Habitat Area Widths. Recommended riparian habitat area widths are shown in the table below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to SMP Appendix 2: Section 6.04(B)(4)(c), or a lesser width is allowed pursuant to SMP Appendix 2: Section 6.04(B)(4)(d). Widths shall be measured outward in each direction, on the horizontal plane, from the OHWM, or from the top of bank, if the OHWM cannot be identified. Riparian areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

SMP Appendix 2: Table 6-1: Riparian Habitat Area Buffers

Riparian Habitat Areas	
Stream type	**Recommended Riparian Habitat Areas widths**
Type S Water. All waters, as inventoried as "shorelines of the state" under the jurisdiction of the SMA, except associated wetlands.	See SMP Section 4.04.02
Type F-A Water. Segments of natural waters other than Type S waters, which are greater than ten feet in width.	150 feet
Type F-B Water. Segments of natural waters other than Type S waters, which are less	100 feet

Riparian Habitat Areas	
Stream type	**Recommended Riparian Habitat Areas widths**
than ten feet in width.	
Type Np Water. Segments of natural waters that are perennial nonfish habitat streams	75 feet
Type Np Water. Segments of natural waters within defined channels that are seasonal, nonfish habitat streams	50 feet

c. Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased, as follows:

1) When the Shoreline Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;

2) When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;

3) When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional 50 feet on the windward side; or

4) When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

d. Riparian Habitat Area Width Averaging. The Shoreline Administrator may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:

1) The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
2) The width reduction will not degrade the habitat, including habitat for anadromous fish;
3) The proposal will provide additional habitat protection;
4) The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
5) The recommended riparian habitat area width is not reduced by more than 25% in any one location;
6) The width reduction will not be located within another critical area or associated buffer; and
7) The reduced riparian habitat area width is supported by the BAS.

e. Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

f. Alternative Mitigation for Riparian Habitat Areas. The performance standards set forth in this Subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin because of alternative mitigation measures.

5. Aquatic Habitat. The following specific activities may be permitted within a riparian habitat area, pond, water of the state, and marine habitat or associated buffer when the activity complies with the provisions set forth in the SMP and subject to the standards of this Subsection. The standards that provide the most protection to protected habitat and species shall apply.

a. Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

1) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year, if the city may

extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

2) Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

3) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

4) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

5) Erosion and sediment control that meets or exceeds the standards set forth in the applicable city stormwater management programs and regulations, shall be provided.

b. Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:

1) Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the project area;

2) The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands; and

3) Mitigation sequencing is followed and adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline erosion control measures.

4) The proposed shoreline erosion control measures do not result in alteration of intertidal migration corridors.

c. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

d. Launching Ramps – Public or Private. Launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:

   1) The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site;

   2) The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;

   3) Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the ramp; and

   4) No alteration of intertidal migration corridors will occur because of the ramp.

e. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

   1) There is no other feasible alternative route with less impact on the environment;

   2) The crossing minimizes interruption of downstream movement of wood and gravel;

   3) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

   4) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

   5) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

   6) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

   7) Road bridges are designed according to WDFW Fish Passage Design at Road Culverts, 1999, and the NMFS Guidelines for Salmonid Passage at Stream Crossings, 2000; and

8) Trails and associated viewing platforms shall not be made of continuous impervious materials.

f. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:

1) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

2) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body, where feasible;

3) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

4) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

5) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

6) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

g. Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a Federal Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.

h. Instream Structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the city and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

i. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

1) No other feasible alternatives with less impact exist;

2) Mitigation for impacts is provided;

3) Stormwater conveyance facilities shall incorporate fish habitat features; and

4) Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

j. On-Site Sewage Systems and Wells

1) New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.

2) Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:

a) Connection to an available public sanitary sewer system;

b) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Grays Harbor County Public Health and Social Services Department; or

c) Repair to the existing on-site septic system.

7 CRITICAL SALTWATER HABITATS

7.01 CRITICAL SALTWATER HABITATS DESIGNATION

Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide.

Where inventory of critical saltwater habitat has not been completed, over water and nearshore developments in marine and estuarine waters shall be required to complete a habitat assessment of site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with WAC 173-26-221(2)(c)(iii)(C).

7.02 STANDARDS FOR PROTECTION OF CRITICAL SALTWATER HABITATS

A. Critical saltwater habitats shall be protected and restored.

B. The management of shorelands as well as submerged areas shall be integrated by the city, as ecological functions of marine shorelands can affect the viability of critical saltwater habitats.

C. The city should include state resource agencies, the Port of Grays Harbor, Grays Harbor County, and affected tribes in critical saltwater habitat planning efforts and determine which habitats and species are of local importance.

D. The city shall protect kelp and eelgrass beds, forage fish spawning and holding areas, and priority species habitat identified by WDNR's aquatic resources division, WDFW, Ecology, and affected tribes as critical saltwater habitats.

E. Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

F. The inclusion of commercial aquaculture in the critical saltwater habitat definition does not limit its regulation as a use.

7.03 REQUIREMENTS

A. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossing, and other structures shall not intrude into or over critical saltwater habitats except when the conditions below are met:

1. Public need is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
2. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable or disproportionate cost to accomplish the same general purpose;
3. The project, and any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;
4. The project is consistent with the state's interest in resource protection and species recovery; and
5. The project is within the Westport Marina in the Westhaven Cove and mitigation is provided as required by the permitting agencies to provide no net loss.

B. Private, noncommercial docks for individual residential or joint use (community use) may be permitted if it is infeasible to avoid impacts by an alternative alignment or location and the project including any required mitigation will result in no net loss of ecological functions associated with the critical saltwater habitat.

C. Until an inventory of critical saltwater habitat has been done, the SMP shall condition all over water and nearshore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions.

1. The methods and extent of the inventory shall be consistent with accepted research methodology.
2. At a minimum, the city should consult with Ecology technical assistance materials for guidance.