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MAY 30 2017

DEPARTMENT OF ECOLOGY
OFFICE OF DIRECTOR

May 25, 2017

Maia Bellon
WA State Department of Ecology
PO Box 47600
Olympia, WA 98504-6700

Ms. Bellon,

The City of Morton has adopted all of the required and recommended changes to the Shoreline Master Program (SMP). Enclosed you will find the revised and final version of the SMP, Notice of Adoption, and Ordinance 2017-02 that the City of Morton has adopted.

Sincerely,
Mayor Dan Mortensen

City of Morton

Shoreline Master Program

Environment Designations, Policies, & Regulations

Prepared by:

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Ecology Grant No: G1200468

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May 18, 2017

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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
County –	Lewis County
CMZ –	Channel Migration Zone
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
GMA –	Washington State Growth Management Act (Chapter 36.70A RCW)
HPA –	Hydraulic Project Approval
MMC –	Morton Municipal Code
NRCS –	Natural Resources Conservation Service
OHWM –	Ordinary High Water Mark
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
UGA –	Urban Growth Area
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

1 INTRODUCTION

1.01 REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT

The state Legislature passed Washington's 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 the city of Morton (city) 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, the Shoreline Master Program (SMP) is created and implemented based on a "...cooperative program of shoreline management between local jurisdictions and the state." With citizen contributions collected through the shoreline planning process, the city developed the SMP, and will implement and administer it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) provided funding for the update, and reviews and approves local SMPs and certain local 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. As appointed by the City Council, the city's Shoreline Administrator 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 of the city under the SMA;

B. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of shoreline resources in 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 result in a net loss of shoreline ecological functions.

1.04 SHORELINE MASTER PROGRAM DEVELOPMENT

As part of a coalition with the cities of Centralia, Chehalis, and Winlock and Lewis County, the city obtained grant number G1200468 from Ecology in 2012 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.

Once this was complete, a Public Participation Plan guided public interaction throughout the development of the SMP. One Citizen Advisory Committee (CAC) covered the unincorporated county and the cities of Morton and Winlock. The CAC 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 was prepared for the Coalition. It described existing biological and physical conditions in 16 shoreline management areas that were further classified into 222 shoreline reaches covering the county and the four cities. These shoreline management areas and 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 that covered eastern Lewis County and the city. Shoreline environment designations were assigned to all areas in 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 with a focus on maintaining the baseline ecological condition. The CAC and the public reviewed these documents.

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

A Restoration Plan was developed for the Coalition to address voluntary, non-regulatory actions that could be taken to restore impaired shoreline ecological functions shoreline jurisdiction. 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 of Ecology final action on 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 private property.

D. 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. According to RCW 90.58.030, the SMP applies to the following shorelines of the state within the city:

A. Segments of streams or rivers where the mean annual flow is more than 20 cubic feet per second.

B. Shorelands adjacent to these waterbodies. These include:

   1. Lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM);

   2. Adopted Federal Emergency Management Agency (FEMA) floodways, or 2010 flood channel study areas and the SMP Flood Course, and contiguous floodplain areas landward 200 feet from such adopted FEMA floodways or 2010 flood channel study areas and the SMP Flood Course;[1] and

   3. All wetlands and river deltas associated with the streams subject to the SMA.

There are no lakes in the city meeting the definition of a shoreline of the state. The Tilton River and Johnson Creek, also known as Lake Creek, are the two shorelines of the state in the city.

The city chose not to include additional areas in shoreline jurisdiction during the SMP planning process, as is an option under RCW 90.58.030 (2)(d)(i) and (ii). [BM1]These additional areas included the following:

- The area beyond the minimum shorelands along stream corridors as defined in the SMA.
- 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 maps 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 floodway, which is defined as the adopted FEMA floodways or SMP flood course, and the presence of associated wetlands. In circumstances where shoreline jurisdiction does

[1] For the city, the 2010 flood channel study areas and the SMP Flood Course were used. The use of the term "SMP Flood Course" does not affect the designation or treatment of floodways as outlined in the critical areas regulations.

not include an entire parcel, only that portion of the parcel and any use, activity or development on that portion of the parcel is subject to the SMP.

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

1.06.02 SHORELINES OF STATEWIDE SIGNIFICANCE

There are no shorelines of statewide significance within the city.

1.06.03 OFFICIAL SHORELINE MAP

The city shall keep the official shoreline map. In the event of an error in the maps, the city will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and Chapter 173-22 WAC pertaining to determinations of shorelands. 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 city, 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.

1.08 CONSISTENCY WITH THE GROWTH MANAGEMENT ACT

The Growth Management Act (GMA) requires that, consistent with RCW 36.70A.480, the goals and policies of the SMP approved under Chapter 90.58 RCW shall be considered an element of the city's Comprehensive Plan. All regulatory elements of the SMP, including, but not limited to definitions and use regulations, shall be considered a part of the city's development regulations. Future amendments to the SMP element of the city's Comprehensive Plan must also follow the amendment procedures of Chapter 90.58 RCW. The SMP was developed to be consistent with the city's Comprehensive Plan and development regulations.

The state SMP Guidelines identify three criteria to use in evaluating the consistency between the SMP's shoreline environment designation provisions and the city's Comprehensive Plan

elements and development regulations. In order for these to be internally consistent, all three of the conditions below should be met:

A. **Provisions not precluding one another.** Comprehensive Plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the Comprehensive Plan and the SMP must be able to be met. Further, when considered together and applied to any property, the SMP use policies and regulations and zoning or other use regulations should not conflict or eliminate all viable uses of the property.

B. **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being affected by incompatible uses, in order to prevent existing or potential future water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, the SMP, Comprehensive Plan, and development regulation should prevent new uses from locating where they are not compatible with or may restrict preferred uses or development.

C. **Sufficient infrastructure.** Infrastructure and services provided in the Comprehensive Plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the Comprehensive Plan does not provide for sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline environment designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

RCW 36.70A.480 governs the relationship between SMPs and development regulations to protect critical areas that are adopted under Chapter 36.70A RCW.

1.09 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.

1.10 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.

1.11 TITLE

This document shall be known and may be cited as the *City of Morton Shoreline Master Program* or SMP. This document may refer to itself as *The Master Program*.

1.12 EFFECTIVE DATE

The SMP is hereby adopted on the 26th date of September, 2016. 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 (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's citizens for their shorelines. Goals provide the basis for the more detailed SMP shoreline environment designations, policies, regulations, and administrative procedures in subsequent chapters.

2.02 ECONOMIC DEVELOPMENT GOAL

Goal ED-1. Utilize shoreline resources to improve the standard of living for residents of the city, while assuring that the resources are utilized in a manner consistent with minimizing adverse effects to the shoreline jurisdiction.

2.03 PUBLIC ACCESS GOAL

Goal PA-1. Provide a variety of public access opportunities that are safe, compatible with natural features, and widely distributed to avoid concentration of user pressure. Assure that intrusions created by public access will not endanger life, property, public or private property rights, or have detrimental effects on fragile natural features.

2.04 RECREATIONAL GOAL

Goal REC-1. Provide shoreline recreational opportunities for citizens and visitors to the city.

2.05 CIRCULATION GOAL

Goal CIR-1. Encourage a multi-modal transportation system that provides efficient and safe movement of people and vehicles with minimum disruption to the shoreline.

2.06 SHORELINE USE GOAL

Goal SU-1. Assure that shoreline development in the city corresponds with the character and physical limitations of the land and water without disrupting environmental quality.

2.07 CONSERVATION GOAL

Goal CONS-1. Encourage sensible management and preservation of renewable shoreline natural resources.

2.08 HISTORIC, CULTURAL, SCIENTIFIC, AND EDUCATIONAL GOAL

Goal HCSE-1. Protect, preserve, and restore areas and sites having historic, cultural, educational, or scientific values.

2.09 FLOOD HAZARD PREVENTION GOAL

Goal FHP-1. Recognize the hydrologic functions of floodplains and protect frequently flooded areas.

2.10 RESTORATION GOAL

Goal REST-1. Encourage restoration of previously degraded areas so that they may be renewed or restored to an ecologically functional condition.

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 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 its Comprehensive Plan**. The Comprehensive Plan goals and policies, land use designations, and various elements that apply to the area, including goals and policies that enact regulations and standards.

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. 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 designations 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.

B. Designation Criteria

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

C. Management Policies

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

1. Allow new overwater structures only for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new overwater structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of overwater facilities to reduce the impacts of development and increase effective use of water resources in shoreline jurisdiction.
4. 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 freshwater 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, while considering upland and in-water uses, water quality, presence of aquatic vegetation, existing critical habitats, aesthetics, public access, and views.

3.01.02 HIGH INTENSITY

A. Purpose

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

B. Designation Criteria

Assign the High Intensity shoreline environment designation to areas within shoreline jurisdiction that currently support high intensity uses related to commerce, industry, public facilities, or transportation, or are suitable for high intensity water-oriented uses. Areas of shoreline jurisdiction assigned this designation should have the following characteristics:

1. Can support high-intensity uses without degradation to existing shoreline function;
2. Designated by the Comprehensive Plan and zoning for high intensity, commercial, industrial, public, or mixed-use development; and
3. Have few biophysical limitations to development such as floodways, floodplains, steep slopes, or landslide hazard areas.

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 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 water-dependent uses are not feasible, because a river or stream is unnavigable, or 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 a mixed-use development or where the applicant can demonstrate that the use will not conflict with or limit opportunities for 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 urban lands in shoreline jurisdiction before expanding intensive development.

3.01.03 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 the 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 jurisdiction, promote preservation of open space, floodway, 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. 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.

3.01.04 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 shoreline height, shoreline buffers, building setbacks, density, impervious surface coverage, 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 and or planned future development.
4. Limit commercial development to water-oriented uses.

3.02 INTERPRETATION OF SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

3.02.01 SHORELINE ENVIRONMENT DESIGNATION MAPS

The shoreline environment designation map is found in SMP Appendix 1: Shoreline Environment Designation Map and is 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 or railroads 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 3.02.02(A)((2), shall be construed to be parallel to or extensions of features in SMP Section 3.02.02(A)(1) or 3.02.02(A)((2) when determining boundaries.

B. In the event of a shoreline environment designation mapping error, the Shoreline Administrator shall utilize 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. All shoreline areas waterward of the OHWM shall be designated Aquatic. All shoreline areas landward of the OHWM shall be designated a shoreline environment designation other than Aquatic.

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

E. Unmapped portions 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.

F. As authorized by WAC 173-26-150, the city planned for and assigned shoreline environment designations within its adopted Urban Growth Area (UGA). However, the city will not have regulatory authority in these areas until they are annexed, unless there are interlocal agreements in place with the county that establish such authority.

4 GENERAL POLICIES & REGULATIONS

4.01 INTRODUCTION

Building on the general SMP goals found in SMP Chapter 2: Shoreline Management Goals, 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 promote shoreline use and development in a manner that protects environmental resources, reduces the likelihood of harm to life or property from potentially hazardous conditions, and promotes 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 and they are intended to ensure that no net loss occurs. Where there is discrepancy between regulations, those regulations that provide greater protection to the resource 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 archeological 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 Lewis County Historical Society, DAHP, and the Confederated Tribes of the Chehalis Reservation, the Cowlitz Indian Tribe, the Nisqually Indian 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. Where development or demolition activity is proposed adjacent to an identified archaeological or historic site, design and operate the proposed development to be compatible with the continued protection of the site.

4.02.02 REGULATIONS

A. Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected tribes and DAHP prior to permit issuance. Failure to complete a site survey shall be considered a violation of the shoreline permit.

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 city, 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 POLICIES

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

4.03.02 REGULATIONS

A. Development proposals shall analyze environmental impacts and include measures to mitigate the impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations.

B. Mitigation measures shall be considered and 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 shall 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 the 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 and restore the ecological functions and ecosystem-wide processes performed by critical areas, buffers, and vegetation in shoreline jurisdiction. Within the SMP, buffers for streams that are 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 requirement of no net loss of shoreline ecological functions.

Provisions for shoreline vegetation conservation within this section include regulations regarding natural 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, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous 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 existing city 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, including public access, water-dependent uses, aesthetic considerations, and the maintenance of shoreline ecological functions, with critical area regulations.

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. Require the replanting of cleared and disturbed sites promptly after completion of any clearance or construction. Require native vegetation in locations previously planted with native species. Permit other plant species in those areas previously vegetated with non-native or ornamental species.

G. Allow the selective pruning of trees for safety and view protection.

H. Conduct removal or modification of 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.

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

4.04.02 REGULATIONS

A. Critical Areas Ordinance Adopted and Modified

1. Whether or not a shoreline permit or letter 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 city's critical areas regulations in effect on the 26th day of September 2016, [BM2]which are contained in the city of Morton Critical Areas Ordinance (Morton Municipal Code (MMC) 17.32.030 through MMC 17.32.055(4) and Flood Damage Prevention Ordinance (MMC 15.16) are integral and applicable to the SMP, and are hereby adopted by reference. These ordinances are found in SMP Appendix 2: Critical Areas Regulations. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with these regulations except as modified in SMP Section 4.04.02(A)(4) below.
3. If there are any conflicts or unclear distinctions between the provisions in MMC 15.16, or MMC 17.32.030 through MMC 17.32.055(4), as found in SMP Appendix 2: Critical Areas Regulations and the requirements in the SMP, the requirements most consistent with the SMA shall apply, as determined by the Shoreline Administrator.

4. To ensure consistency with the SMA, exceptions to the applicability of the regulations in the city of Morton Critical Areas and Flood Damage Prevention Ordinances, as found in SMP Appendix 2, above are listed below:

    a. References to the Lewis County SMP shall be considered to be to the Morton SMP (this document).

    b. MMC 17.32.030(5)(C) – Passive recreation, education and research. Within shoreline jurisdiction, pathways and trails in wetland buffers shall be limited to the outer 25% of wetland buffers. Outside of wetland buffers, pathways and trails are allowed within the shoreline buffer to provide access to aquatic features.

    c. MMC 17.32.030(6) - Reasonable use exception, MMC 17.32.030(7) – Variance, and MMC 17.32.045(4) – Frequently flooded areas – special variance considerations. Within shoreline jurisdiction, shoreline variances will serve as a reasonable use exception or variance review.

    d. MMC 17.32.035(1) - Wetland identification and classification. In shoreline jurisdiction, identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as amended.

    e. MMC 17.32.035(4) - Wetland buffers. The Washington State Wetland Rating System was updated in 2014. In shoreline jurisdiction, the following point scale shall be used to separate the wetland categories used in this table:

        - Habitat scores of 29-36 points will be 8-9 points;
        - Habitat scores of 20-28 points will be 5-7 points; and
        - A water quality score of 24-32 points and a habitat score <20 points will be water quality 8-9 points and a habitat score of 3-4 points.

        For category IV wetlands, scores of <30 for all functions will be 9-15 points.

    f. MMC 17.32.035(6) - Habitat connectivity required. Based on the rating system changes outlined above, the 'high habitat score' cited in this provision shall be 8-9 points.

    g. MMC 17.32.035(9) - Wetland mitigation. In shoreline jurisdiction, mitigation ratios that rely on enhancement of wetland areas shall be quadrupled rather than doubled. Required mitigation plans shall establish performance standards for evaluating the success of compensatory mitigation actions.

Mitigation plans shall also address long-term protection and management of compensatory mitigation sites.

h. MMC 17.32.040(6)(E) - Alternative Buffers. Within shoreline jurisdiction, any proposal to reduce riparian buffers beyond the averaging allowance in MMC 17.32.040(6)(D) requires a shoreline variance.

i. Definitions. In shoreline jurisdiction, the definition of "wetland categories" shall refer to the Washington State Wetland Rating System for Western Washington, 2014 update. All bogs, regardless of size, shall be rated as Category I wetlands. The point references in this section shall refer to the point scale identified in (5) above.

5. The provisions of the city's critical areas regulations do not extend shoreline jurisdiction beyond the limits specified in SMP Section 1.06.01.

B. Shoreline Buffer Tables

1. As outlined above, the city's required critical area buffers shall be considered shoreline buffers. Riparian habitat buffers on Type 1 and Type 2 streams, which include all streams in shoreline jurisdiction, are 250 feet.
2. 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. Some uses or developments not meeting the criteria above may be authorized through buffer averaging or through issuance of a shoreline variance.
3. SMP Table 4-1: Shoreline Buffers establishes shoreline buffers by shoreline environment designation.
4. Shoreline buffers shall be measured horizontally in a landward direction from the OHWM.
5. "N/A" in SMP Table 4-1: Shoreline Buffers means the requirement is not applicable.
6. 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.

Table 4-1: Shoreline Buffers

Standard Shoreline Buffer from the OHWM (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Aquaculture				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures and uses	75 feet	75 feet	75 feet	N/A
Boating and Water Access Facilities				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures and uses	100 feet	100 feet	100 feet	N/A
Non-water-oriented structures and uses	250 feet	250 feet	250 feet	N/A
Commercial Development				
Water-dependent structures and uses	0 feet	N/A	N/A	N/A
Water-related and water-enjoyment structures and uses	100 feet	N/A	N/A	N/A
Non-water-oriented structures and uses	250 feet	N/A	N/A	N/A
Industrial Development				
Water-dependent structures and uses	0 feet	N/A	N/A	N/A
Water-related structures and uses	100 feet	N/A	N/A	N/A
Non-water-oriented structures and uses	250 feet	N/A	N/A	N/A
Recreational Development (2)(3)				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures and uses	100 feet	100 feet	100 feet	N/A
Non-water-oriented structures and uses	250 feet	250 feet	250 feet	N/A
Residential Development	250 feet	250 feet	250 feet	N/A
Signs (Freestanding Structures)	250 feet	250 feet	250 feet	N/A
Transportation Facilities				
Bridges for motorized and non-motorized uses	0 feet	0 feet	0 feet	0 feet
Expansion of roads within existing right-of-way	(3)	(3)	(3)	N/A

Standard Shoreline Buffer from the OHWM (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
New roads related to permitted shoreline uses	(4)	(4)	(4)	N/A
Expansion of roads outside of a right-of-way or relocation of existing roads	(4)	(4)	(4)	N/A
Utilities (Primary)				
Water-dependent structures	0 feet	0 feet	0 feet	0 feet
Water-related structures	100 feet	100 feet	100 feet	N/A
Non-water-oriented structures	(5)	(5)	(5)	N/A

Notes:

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

(2) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures. Wildlife viewing structures and permeable trails or raised boardwalks may be allowed on a limited basis within riparian and wetland buffers in accordance with the mitigation sequence and critical area regulations above.

(3) Only allowed within existing right-of-way.

(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. Buffer Width Reduction Options

Shoreline and critical area buffers, with the exception of geologically hazardous areas buffers, may be reduced using the following procedures. Only one buffer width reduction option below may be selected per development:

1. Buffer Averaging

The width of a buffer may be averaged following the requirements of MMC 17.32.035(7) and MMC 17.32.040(6)(D), thereby reducing the width of a portion of the buffer, and increasing the width of another portion of the buffer.

2. Buffer Width Reduction

   Reductions of up to 25% of a buffer may be approved administratively if buffer averaging in SMP Section 4.04.02(C)(1), common line buffer (SMP Section 4.04.02(C)(3)), or interrupted buffer provisions (SMP Section 4.04.02(C)(4)) are infeasible. The buffer width reduction must be designed to ensure no net loss of shoreline ecological functions when the reduction is utilized.

3. Common Line Buffer (Applicable to Shoreline Buffers Only)

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

   a. The proposed residence must be located within 300 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 buffer.

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

   c. Existing Residences on Both Sides: Where there are existing residences adjacent on both sides of the proposed residence, the buffer shall be determined as the greater of either:

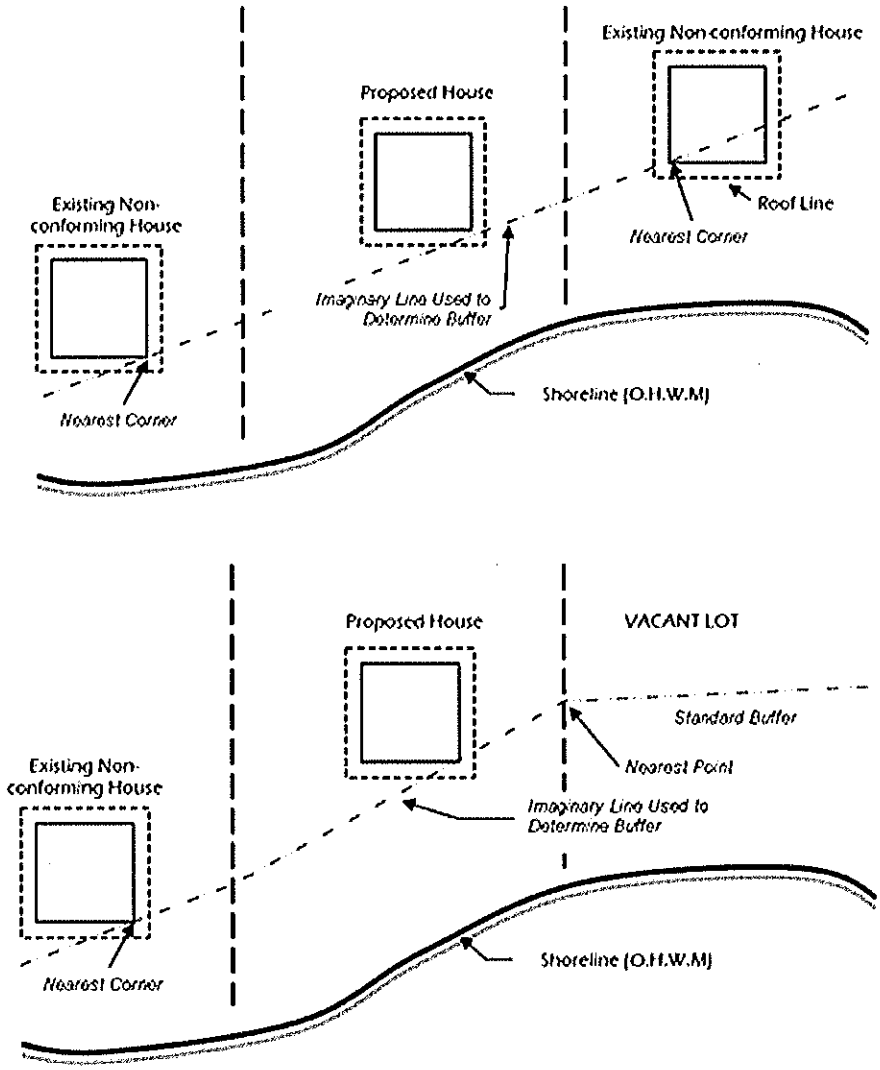
      1) A common line drawn between the nearest corners of each adjacent residence, or

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

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

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

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



4. Interrupted Buffer Provision

   a. The Shoreline Administrator may allow a reduced buffer where a legally established substantial improvement such as a road, railroad, 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 railroads, 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 the SMP:

a. Uses and activities authorized to locate in shoreline buffers in SMP Chapter 5: Specific Shoreline Use Policies & Regulations, SMP Chapter 6: Shoreline Modification Policies & Regulations.

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; 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) Essential public facilities must demonstrate that alternative sites 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 applicable critical area regulations.

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. Wildlife viewing structures and trails or raised boardwalks may be allowed on a limited basis within riparian and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and applicable critical area regulations.

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.

E. Vegetation Conservation Standards

1. Shoreline buffers protect the ecological functions of the shoreline, help to reduce the impacts of land uses on the water body 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 any applicable critical area 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 in coordination with the requirements of the applicable critical areas regulations. The Shoreline Administrator may require a critical area report for Critical Areas Ordinance (CAO) 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 buffers 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 the 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, unless the tree is a hazard tree. Trees that are felled in shoreline buffers should be left in place.
9. In those instances where the management of vegetation required by this section conflicts with provisions in state, federal or other flood hazard agency documents that govern 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.

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.

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 Washington State Department of Fish and Wildlife (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 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 FLOOD HAZARD MANAGEMENT

This section applies to actions taken to reduce flood hazards in shoreline jurisdiction as well as uses, development, and shoreline modifications that may increase flood hazards.

Measures to reduce flood hazards may consist of: nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs; and structural measures, such as dikes, levees, revetments, floodwalls, dams, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

The city currently implements flood hazard management through:

- The Comprehensive Plan;
- The latest edition of the Stormwater Management Manual as prepared by Ecology;
- The city's Flood Damage Prevention code;

- The Lewis County Multi-Jurisdictional Hazard Mitigation Plan;
- Watershed Management Plans; and
- Channel Migration Zone (CMZ) studies.

Standards for shoreline stabilization measures are addressed in SMP Chapter 6: Shoreline Modification Policies & Regulations.

4.05.01 POLICIES

A. Facilitate returning river and stream conditions to more natural hydrological conditions where feasible and appropriate.

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. Limit development and shoreline modifications that interfere with the natural process of channel migration within the CMZ.

E. Require new publicly funded dike or levee projects to dedicate and improve public access, subject to the exceptions in SMP Section 4.06.

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

4.05.02 REGULATIONS

A. All proposed flood hazard management measures shall comply with the city's Flood Damage Prevention Plan.

B. Development in floodplains shall not increase flood hazards.

C. Within shoreline jurisdiction, new development or uses, including subdivision of land, shall not be permitted when it would be reasonably foreseeable that the development or use would require new structural flood hazard reduction measures.

D. New structural flood hazard management measures may be permitted if consistent with applicable provisions on SMP Chapter 6: Shoreline Modification Policies & Regulations.

E. New publicly-funded structural flood hazard management measures, including dikes and levees, shall dedicate and improve public access except in those instances as listed in SMP Section 4.06.02(B).

F. Removal of gravel for flood management purposes shall be permitted only after a biological and geomorphological study demonstrates that the extraction:

1. Provides a long-term benefit to flood hazard management;
2. Does not result in a net loss of ecological functions; and
3. It is part of a comprehensive flood management solution.

G. New development within floodways, the SMP flood course, and the CMZ shall not interfere with the process of channel migration or cause a net loss of ecological functions. If existing CMZ studies are not available for an area of known channel migration, a site analysis may be required to ensure that development does not interfere with the process of channel migration.

H. Development in the CMZ, SMP flood course, and floodways, 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. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;
5. Development in UGAs, as defined in Chapter 36.70A RCW, where existing structures prevent active channel movement and flooding; or
6. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

4.06 PUBLIC ACCESS

This section applies to shoreline public access. 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.

4.06.01 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 appropriate and consistent with adopted parks and recreation plans, the natural shoreline character, private property rights, public safety, and public rights under the Public Trust Doctrine.[2]

C. Design public access to minimize potential impacts to private property.

D. Ensure public access opportunities do not include the right to enter or cross private property, except where dedicated public rights-of-way or easements are established or where a development is specifically designed to accommodate public access.

E. 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. Tailor acquisitions to implement adopted plans or to protect areas that hold unique value for public enjoyment.
4. Encourage public access to shorelines as part of shoreline development.

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[2] The "public trust doctrine" is a common law principle holding that "the waters of the State are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation, and similar uses." While the doctrine "protect(s) public use of navigable waterbodies below the OHWM," the doctrine "does not allow the public to trespass over privately owned uplands to access the tidelands." See:http://www.ecy.wa.gov/programs/sea/sma/laws_rules/public_trust.html.

F. Ensure shoreline development plans by public entities, including the city, port districts, state agencies, and public utility districts, include public access measures unless it is unsafe, unsecure, or negatively affects the shoreline jurisdiction.

G. Ensure that development minimizes interference with the public's visual access to the water through standards for design, construction, and operation. Provisions such as maximum shoreline height limits, shoreline buffers, and building setbacks should each be considered to preserve and/or enhance views from private or public property.

4.06.02 REGULATIONS

A. Shoreline 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;
3. Shoreline development by public entities, including the city, port districts, state agencies, and public utility districts;
4. Developments that include five or more new housing units either through subdivision or a multifamily project; and
5. All other development and use types that are required to incorporate shoreline public access as identified in the SMP, or other state or federal requirements.

B. Shoreline 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. Significant environmental impacts will result from the public access 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, railroads, 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;

C. In addressing SMP Section 4.06.02(B) 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.; or
   3. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.

   Where physical access is not feasible, visual access shall be provided instead.

D. A determination that no physical or visual public access is feasible must be supported by the Shoreline Administrator within the findings in the underlying permit.

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

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. Recording with the Lewis County Auditor shall occur at the time of permit 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.

4.07 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.

4.07.01 POLICIES

A. Protect shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered by the city.

B. 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.

4.07.02 REGULATIONS

A. All development in shoreline jurisdiction shall comply with the appropriate requirements of the SMP and the latest edition of the Stormwater Management Manual as prepared by Ecology.

B. Septic systems should be located as far landward of the OHWM and flood course as feasible.

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

D. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a water body, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al.,*

v. EPA shall not be applied within 60 feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.

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 shoreline permits or letters of exemption are required.

5.02.01 POLICIES

A. Prohibit the following uses within the city's shoreline jurisdiction: agriculture, forest practices, and mining.

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 where they are appropriate and 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. Where feasible, locate accessory structures or uses, 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:

1. Ensure that the development will not result in a net loss of shoreline ecological functions; and

2. Support the long-term beneficial use of the shoreline, and protect and maintain shoreline ecological functions and processes.

E. Develop regulations for shoreline buffers consistent with protecting existing ecological functions, accommodating water-oriented and preferred uses, recognizing existing development patterns, and minimizing the creation of non-conforming 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 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 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.

B. Development shall comply with the most restrictive bulk and dimensional requirements in MMC Title 17 or SMP Section 5.04.

C. Accessory uses, such as parking, stormwater management facilities, and utilities shall be located outside of the shoreline buffer and associated building setback unless authorized in SMP Section 4.04.02(D)(1)(b).

D. 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.

E. Agriculture, forest practices, and mining are prohibited in the shoreline jurisdiction

5.03 ALLOWED SHORELINE USES

A. SMP Table 5-1: Permitted, Conditional, and Prohibited Uses in this section establish the uses and development allowed within the shoreline environment designations for each jurisdiction. 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 use 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.

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

Shoreline Uses (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic (2)
Key: P = Permitted Use, C = Conditional Use, X = Prohibited				
Agriculture	X	X	X	X
Aquaculture	C	C	C	C
Boating and Water Access Facilities				
Boat Ramps and Launches	P	P	P	(3)
Boat Launching Rails	P	P	P	(3)
Private Single / Joint-Use Docks and Piers	P	P	P	(3)
Public Docks and Piers	P	P	P	(3)
Commercial Development (4)	P	X	X	X
Forest Practices	X	X	X	X
Industrial Development (5)	P	X	X	X
Mining	X	X	X	X
Parking (6)	P	P	P	X
Recreational Development (7)				
Water-oriented	P	P	P	P (8)
Non-water-oriented	P	P	P	X
Trails	P	P	P	X
Residential Development	P	P	P	X
Signs (Freestanding Structures)	P	P	P	X
Transportation Facilities				
Bridges for motorized and non-motorized uses	P	P	P	C
Expansion of roads within existing right-of-way	P	P	P	X
New roads related to permitted shoreline uses	C	C	C	X
Expansion of roads outside of a right-of-way or movement of existing roads	C	C	C	X
Utilities (Primary)				
Solid waste disposal or transfer sites	X	X	X	X
Other	C	C	C	C

Notes:

(1) Any use that would substantially degrade ecological functions in shoreline jurisdiction should not be allowed. In addition, development shall be subject to the underlying zoning.

(2) Where a use would be located both upland and overwater, the more restrictive standards apply.

(3) See adjacent upland shoreline environment designation.

(4) New non-water-oriented commercial development is subject to meeting the criteria in SMP Section 5.08.02.

(5) New non-water-oriented industrial development is subject to meeting the criteria in SMP Section 5.10.02.

(6) Parking may be allowed as an accessory use to an approved use. Off-street parking lots or parking structures are prohibited as a primary use in all shoreline environment designations.

(7) Concession stands, gift shops, and interpretive centers are permitted as accessory uses when limited to the minimize size necessary for the use and serving a related, permitted recreational use in the Shoreline Residential or Urban Conservancy shoreline environment designations.

(8) Only water-dependent uses are permitted in the Aquatic shoreline environment designation.

5.04 DEVELOPMENT STANDARDS

5.04.01 DENSITY AND LOT COVERAGE

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

5.04.02 SHORELINE HEIGHT

A. To limit the obstruction of views from public property or residences, SMP Table 5-2: Shoreline Height Regulations sets the maximum 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: freight moving equipment, power or light poles, bridges, 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. Development within the various shoreline environment designations may be increased to the underlying zoning district height limit through a shoreline variance that meets the criteria in SMP Section 7.04.03 provided:

1. The increase does not substantially block views from adjacent residential properties;
2. Greater height is demonstrated to be needed for an essential element of an allowed use;
3. The project includes compensating elements that substantially enhance the visual and physical public access to the shoreline, if required; and
4. It is demonstrated that no net loss of shoreline ecological function will be achieved.

Table 5-2: Shoreline Height Regulations

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

Notes:

(1) Maximum shoreline height may be increased to 100 feet in the C-1 or C-2 zoning designations with approval of a shoreline variance.

D. View Corridor Review Process

1. 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 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 federal-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.

2. 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; and

      3) Surface water views lost, compromised, or retained.

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

   c. Applicants proposing building or structure heights above 35 feet in the High Intensity shoreline environment designation that are consistent with the SMP and underlying zoning allowances, may be approved as part of a shoreline variance if the following criteria are met:

      1) The building or structure will not affect a substantial number of residences. The applicant shall review residences in the area adjoining the project area.

      2) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall 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.

5.05 AGRICULTURE

New agricultural uses and development are prohibited in the 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 regulated in SMP Section 5.05. Aquaculture is a preferred use in the shoreline jurisdiction. Locations for aquaculture are relatively restricted due to requirements for water quality, temperature, flows, oxygen content, and adjacent land uses.

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. Do not allow aquaculture in locations that would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, or interfere with other water-dependent uses.

C. Minimize the potential of cumulative adverse impacts from aquaculture on water quality, sediment quality, benthic and pelagic organisms, wild fish populations, or other Endangered Species Act (ESA) listed species because of antibiotic resistant bacteria, escapement of non-native species, and/or other factors.

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

E. Minimize potential aesthetic impacts associated with aquaculture uses through the consideration of view impacts on surrounding properties and public access points.

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, and wind protection.

5.06.02 REGULATIONS

A. Applicability

1. Review as part of the SMP is required 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 cultivation of the new species or the use of a new culture technique has the potential for significant adverse environmental impacts.
3. A shoreline letter of exemption in accordance with SMP Section 7.04.04 is required for all aquaculture activities that are reviewed as part of the SMP, but that do not require a shoreline substantial development permit, conditional use permit, or variance.

B. Location

1. Water-dependent portions of aquaculture facilities and their necessary accessories may be located waterward of the OHWM in the Aquatic 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.
2. 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.
3. Sites shall be selected to avoid or minimize alteration to the shorelines. Applicants for aquaculture operations shall be required to demonstrate that the location of the proposed facilities avoids and minimizes impacts to on-site critical areas and habitats to the maximum extent feasible, and limits impacts on existing public access points, navigable waters, and other water-dependent uses.
4. 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. Aquaculture that involves substantial aquatic substrate modification or sedimentation through dredging, trenching, digging, or other mechanisms, shall not be permitted in areas where the proposal would have long-term adverse impacts on the strength or viability of native stocks. The degree of proposed substrate modification shall be the minimum necessary for feasible aquaculture operations at the site.
2. New aquaculture proposals shall comply with the mitigation sequence in SMP Section 4.03. Aquaculture uses that would have a significant adverse impact on natural shoreline processes or result in a net loss of shoreline ecological functions are prohibited.
3. New aquatic species that were not previously found or cultivated in the city shall not be introduced into fresh waters without prior written approval of the WDFW.
4. Permanent water-dependent instream facilities must be properly anchored to prevent channel migration, erosion or a safety hazard, and must evaluate and mitigate potential adverse effects on adjacent properties upstream and downstream.
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.
    a. 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 or 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. Aquaculture 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. 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.

5.07 BOATING AND WATER ACCESS FACILITIES

This section applies to all in-water and overwater structures and uses that facilitate water access or the launching of vessels. Construction of dock structures for the private noncommercial use of the owner, lessee, or contract purchaser of single- and multifamily residences are exempt from the requirement for a shoreline substantial development permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(h). An HPA from WDFW may still be required.

5.07.01 POLICIES

A. Encourage the construction and operation of boating and water access facilities to allow public access for enjoyment of City shorelines.

B. Site, design, construct, and operate boating and water access facilities to incorporate BMPs and ensure no net loss of shoreline ecological functions.

C. Balance the encouragement of public access and the protection of ecological functions in the expansion of existing or construction of new boating and water access facilities.

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

E. Ensure that boating and water access facilities do not impact the navigability of the water body or adversely affect other water-dependent uses.

F. Plan and coordinate public boating 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.

G. Only allow the construction of new docks and piers for public access or water-dependent uses.

H. Minimize impacts to adjacent uses and users, such as aesthetic or noise-related impacts, impacts to public visual access to the shoreline, or offsite impacts caused by public access to the shoreline. If impact avoidance is not feasible, require mitigation.

I. Limit the lighting of boating and water access facilities to the minimum extent necessary.

5.07.02 REGULATIONS

A. Location Standards

1. New boating and access facilities shall maintain the rights of navigation on the waters of the State.
2. Boating and other water access facilities shall be sited and designed to ensure no net loss of shoreline ecological functions.
3. Boating and other water access facilities shall meet WDNR requirements and other State guidance if located in or over State-owned aquatic lands.
4. Boating and water access facilities shall be located where:
    a. There is adequate water mixing and flushing;
    b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
    c. Water depths are adequate to minimize spoil disposal, the placement of fill, beach enhancement, and other channel maintenance activities; 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.
5. Boating and water access facilities shall not be located:
    a. Along braided or meandering river channels where the channel is subject to change in alignment;
    b. On point bars or other accretion beaches;
    c. Where new dredging or new ongoing maintenance dredging will be required;

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

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

6. Boating 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 and Water Access Facilities

1. All boating 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.

2. All boating 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 and water access facilities shall be designed to provide physical and/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 day moorage only. No live-aboard vessels or floating homes are allowed.
9. Non-water-dependent elements and uses, such as decks and gazebos built on docks or piers, are not allowed.
10. Upland boat storage may be allowed within the shoreline jurisdiction provided impervious 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, Launches, and Rails

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, launches, and rails may be permitted for boating and water access facilities, recreational uses, and developments with more than four residential units subject to SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.
3. Boat ramps, launches, and rails shall be sited to minimize impacts to aquatic and upland wildlife habitats, native emergent vegetation, fluvial processes, water quality, and navigation. All facilities shall be located and designed using mitigation sequencing.
4. Boat ramps, launches, and rails shall be located where water depths are adequate to eliminate or minimize the need for dredging, the placement of fill, beach enhancement, or other maintenance activities.
5. The design of boat ramps, launches, and rails shall comply with all regulations 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, launch, or rail is the minimum necessary to launch the intended craft safely. In no case shall the boat launch ramp or rail extend beyond the point where the water depth is eight feet below the OHWM, unless the Shoreline Administrator determines that a greater depth is needed for a public boat launch facility.
7. Boat ramps, launches, or rails shall be designed and constructed by 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 220-660-140 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, including single-family residences, so long as the dock or pier complies with the regulations contained in this section. Docks and piers shall meet the following standards:
    a. Docks and piers serving a single-family residence are defined as water-dependent accessory uses, provided they are designed and intended as a facility for access to watercraft. To be authorized, the residential use and the accessory dock or pier must be allowed in the underlying upland shoreline environment designation.
    b. New docks and piers that are not accessory to single-family residences shall be permitted only when they are intended for public use or when the applicant demonstrates that the new dock or pier supports a water-dependent use.
    c. No more than one dock or pier is permitted for each single-family residence existing as of the effective date of this SMP.
    d. Only joint-use overwater structures and launching facilities are allowed for new residential development or subdivisions of two or more waterfront dwellings occurring after the effective date of this SMP.
    e. No more than one pier, dock, or other moorage structure is allowed for a water-dependent commercial use or a multifamily development.
3. When individual lots have less than 50 feet of water frontage, a joint-use dock or pier that is shared with neighboring properties shall be required, provided that an individual dock may be allowed subject to the requirements of SMP Table 5-1: Permitted, Conditional, and Prohibited Uses when lots on either side of the subject lot have legal pre-existing docks or piers and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. In this case, a lot with less than 50 feet of minimum shoreline frontage may be permitted an individual dock or pier.
4. The maximum dimensions of a dock or pier shall meet the following development standards. An explanation of why the dock or pier length was chosen shall be submitted with the application.

a. Residential docks and piers shall be no greater than the widths allowed for HPA permits in WAC 220-660-140(3) and shall not exceed 50 feet beyond the OHWM.

b. Docks and piers for commercial, recreational, or public access use may be up to ten feet in width and shall not exceed 50 feet beyond the OHWM.

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

d. 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(E)(1). Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.

E. Existing Uses and Structures

1. Replacement

   a. If any of the following are proposed, the project is considered a new boating and water access facility and must be designed consistent with any applicable standards for new boating and water access facilities.

      1) Replacement of the entire overwater boating and water access facility;

      2) Replacement of 75% or more of support piles on a cumulative basis over the life of the facility; or

      3) Replacement of 75% or more of a boat launch on a cumulative basis over the life of the boat launch.

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 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 and water access facilities that fall below the standards identified in SMP Section 5.07.02(J)(1) are permitted consistent with all other applicable codes and regulations.

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

F. Mitigation

1. New or expanded boating and water access facilities should follow the mitigation sequence in SMP Section 4.03.
2. Compensatory mitigation proposals must provide mitigation at a minimum 1:1 ratio, by area, of new overwater cover to mitigation action using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate, as determined by a qualified professional.
3. For new development and expansion of existing boating and water access facilities, 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.

4. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function.

G. Application Requirements

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

1. A description of the proposed boating 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;
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 pursuant to SMP Section 4.04;
6. A slope bathymetry map when deemed beneficial by the Shoreline Administrator; and
7. An assessment of existing water-dependent uses in the vicinity and a documentation of the 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. Water dependent commercial uses are a priority over non-water dependent commercial uses.

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. Public access should be required where commercial uses are proposed on land in public ownership.

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 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 a water-dependent, water-related, or water-enjoyment use and provides a significant public benefit such as providing public access or ecological restoration;
2. It is an expansion of a commercial use that existed at the time of the SMP update that does not move any closer to the shoreline;
3. Navigability is severely limited at that location and the commercial use provides a significant public benefit such as public access or ecological restoration; or
4. The commercial use is physically separated from the shoreline by another property, railroad, or public right of way.

C. Water-dependent commercial uses and development shall be given preference over water-related and water-enjoyment commercial uses. Water-oriented uses shall be given preference over non-water oriented uses. The applicant shall demonstrate that the proposed design, layout, and operation of commercial uses meet the definitions of water-dependent, water-related, or water-enjoyment.

D. Non-water-dependent commercial uses over water are prohibited in the shoreline jurisdiction.

5.09 FOREST PRACTICES

Forest practices are unsuited to the goals of the city's shoreline jurisdiction.

5.09.01 POLICIES

A. Prohibit forest practice activities within all shoreline environment designations.

5.09.02 REGULATIONS

A. Forest practices are prohibited in all shoreline environment designations.

B. For the purpose of the SMP, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices. Conversions shall be reviewed in accordance with the provisions in this chapter applicable to the proposed non-forestry use, and the general provisions of the SMP in SMP Chapter 4: General Policies & Regulations. Vegetation removal shall be limited to the minimum necessary, and conversions shall result in no net loss of ecological functions and shall avoid impacts to recreation and public access.

5.10 INDUSTRIAL DEVELOPMENT

Industrial development encompasses manufacturing, production, processing, and storage of raw materials and other finished products.

5.10.01 POLICIES

A. Ensure a sufficient amount of land is designated to accommodate water-dependent or water-related industry. Water dependent industrial uses are a priority over non-water dependent industrial uses.

B. Locate, design, and construct industrial development in a manner that assures no net loss of shoreline ecological functions and does not have significant adverse impacts to other shoreline resources and values.

C. Encourage new industrial development to locate in areas where environmental cleanup and restoration can be incorporated in the project.

D. Encourage public access to the shoreline as part of industrial developments where feasible.

5.10.02 REGULATIONS

A. Water-dependent industrial uses and development shall be given preference over water-related and nonwater-oriented industrial uses. Water-related uses shall be given preference over non-water oriented uses. The applicant shall demonstrate that the proposed design, layout, and operation of industrial uses meet the definitions of water-dependent or water-related uses.

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

   1. It is part of a mixed-use project that includes a water-dependent, water-related, or water-enjoyment use 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;
   3. It is an expansion of an industrial use that existed at the time of the SMP update that does not move any closer to the shoreline; or
   4. The site is physically separated from the shoreline by another property or public right of way.

C. Public access shall be incorporated in industrial developments where feasible. Public access shall be required where feasible for new industrial development on publicly owned land.

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

E. Industrial development and redevelopment are encouraged to locate where state and federal requirements for environmental cleanup and restoration of the shoreline area can be incorporated.

5.11 MINING

Mining is prohibited in the shoreline jurisdiction.

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.

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 accessories to authorized shoreline uses. Stand-alone parking facilities not supporting an authorized primary use are prohibited in shoreline jurisdiction.

B. Parking facilities serving individual uses 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 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 in 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.

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 the 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 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.

B. Applicant shall submit plans that demonstrate the best management practices (BMPs) and methods to be used to prevent chemical applications and resultant leachate from entering adjacent waterbodies.

C. 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.

D. Wildlife viewing structures and trails or raised boardwalks are allowed within shoreline and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and the critical area regulations in SMP Section 4.04.

E. 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.

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

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

H. 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. Single-family residences are a priority use when developed in a manner that ensures no net loss of ecological 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, on-site sewage system standards, and aesthetic enhancement.

B. Control residential uses and development in areas subject to environmental limitations, such as wetlands, stream buffers, 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 will not be 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 4.06 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 shoreline jurisdiction when they are 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 such appurtenances under the standards of this section.

5.14.02 REGULATIONS

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

B. Residential subdivisions shall:

1. Comply with all applicable subdivision, critical areas, and zoning regulations.

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 the full build-out of all the lots, and throughout all phases of the development.

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

c. Prevent the need for new flood hazard reduction measures or hard or soft shoreline stabilization in accordance with SMP Section 4.05 and SMP Section 6.07.

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 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 4.06.

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 over the water, 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.

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 activity.

5.15.01 POLICIES

A. Limit off-premise outdoor advertising signs within the shoreline jurisdiction.

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 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 the 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 a traffic control or wayfinding sign, or a marker for a monument, historic, or cultural site, 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 structures such as 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 should be reviewed as part of SMP Section 5.14

5.16.01 POLICIES

A. Plan, locate, and design new transportation facilities where routes will have the least adverse effect on shoreline features, shoreline ecological functions, and existing or planned water-dependent uses.

B. Maintain and reconstruct roads in accordance with the BMPs adopted by the city and the 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 jurisdiction 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 and railroad 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 option for the location of the facility exists. If no alternative exists to placing a new transportation facility in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be prepared consistent with the provisions of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

B. When located within the 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 to 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 nonmotorized 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 motorized 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 permit the passage of flood debris.

5.17 UTILITIES

The provisions of this section apply 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 and shall be addressed under 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 whenever the 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 prepared by a qualified professional must be prepared consistent with the provisions of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

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

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

   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 channel migration or 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 or following a down-valley course near the channel, 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 standards of SMP Section 4.04.

6 SHORELINE MODIFICATION POLICIES & REGULATIONS

6.01 INTRODUCTION

Building on the general SMP goals found in SMP Chapter 2: Shoreline Management Goals, 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 establishes what specific shoreline modification activities are allowed within each of the shoreline environment designations. Shoreline modification activities may be permitted, allowed with a shoreline conditional use permit, or prohibited and not eligible for a shoreline conditional use permit or variance. 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	Aquatic (2)
Key: P = Permitted Use, C = Conditional Use, X = Prohibited				
Clearing and Grading	P	P	P	See adjacent upland shoreline environment designation
Fill				
Fill Landward of OHWM	P	P	C	
Fill Waterward of OHWM (3)	C	C	X	
Dredging and Dredge Material Disposal (3)	C	C	C	
In-Water Structures (4)	C	C	C	
Restoration (5)	P	P	P	
Shoreline Stabilization				
Hard Shoreline Stabilization Measures	P	P	C	
Soft Shoreline Stabilization Measures	P	P	P	

Notes:

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

(2) Shoreline modifications occur at or have the potential to occur at or waterward of the OHWM in the Aquatic shoreline environment designation. Modifications are regulated based on the adjacent landward shoreline environment designation.

(3) 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 Section 6.03 and SMP Section 6.04 for requirements.

(4) All in-water structures require a shoreline conditional use permit, except when such structures are installed to protect or restore ecological functions, such as woody debris installed in streams. 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. Shoreline modifications may 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 and 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 modification 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 upland areas shall be restored and protected from erosion by using native vegetation or other 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.

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, primary utility installation, the construction of water-dependent portions of essential public facilities, or restoration.

6.03.01 POLICIES

A. Protect shoreline ecological functions, including channel migration, 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 or levee maintenance as necessary to provide protection from flood hazards when consistent with the flood hazard management provisions in SMP Section 4.05.

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, including channel migration.

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 prepared by a qualified professional must be prepared consistent with the provisions of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

E. Clearing, grading, and fill within wetlands, floodways, or CMZs, 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 cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
      c. The disposal of dredged material under SMP Section 6.04;
      d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline, where alternatives to fill are infeasible;
      e. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or
      f. 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, floodways, and CMZs 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
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, or as part of an approved environmental cleanup plan or project.

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 4.05.

6.04 DREDGING AND DREDGE MATERIAL DISPOSAL

This section is intended to cover dredging and dredge material disposal. It is not intended to cover other excavations waterward of the OHWM that are incidental to construction of an authorized use or modification such as bulkhead replacements, large woody debris installations, 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. Permit dredging as part of restoration or enhancement, public access, or flood storage if deemed consistent with the SMP.

C. Prohibit dredging waterward of the OHWM to obtain fill except when the dredge material is necessary for the restoration of shoreline ecological functions or as part of a flood hazard management program.

D. 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.

E. Prefer the disposal of dredged material on land outside of the shoreline jurisdiction to open water disposal.

F. 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 Section 4.04 and SMP Appendix 2: Critical Areas Regulations.
2. Dredging shall only be permitted for the following activities:
    a. Development of water-dependent industrial 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;
        2) The utility installation does not increase or decrease the natural rate, extent, or chance of channel migration; and
        3) Appropriate BMPs are employed to prevent water quality impacts or other environmental degradation.

e. Flood hazard reduction, as part of a flood hazard management program.

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 so long as:
    a. Shoreline ecological functions and processes are preserved, restored, or enhanced. Factors to consider include surface and groundwater protection, erosion, sedimentation, and the impacts of floodwaters or runoff.
    b. The disposal will not affect adversely public or private property.
2. The disposal of dredged material is considered suitable under, and conducted in accordance with, the Washington State Department of Natural Resources' (WDNR's) Dredged Material Management Program and the United States Army Corps of Engineers' (USACE) Dredged Material Management Office.
3. Disposal of dredge material within CMZs is discouraged. In the limited instances where it is allowed, such disposal shall require a shoreline conditional use permit, if this provision is not intended to address the discharge of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geohydrologic character of the CMZ.
4. Dredge material disposal in open waters may be approved when authorized by applicable state and federal agencies and when one of the following conditions apply:
    a. Land disposal is infeasible, inconsistent with the SMP, or prohibited by law; or

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

5. 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.

C. Submittal Requirements

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 state or federal permits such as an HPA may be used to support the analysis.

6.05 IN-WATER STRUCTURES

This section applies to in-water structures as defined in SMP Chapter 8.

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 (NRCS), and the USACE.

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

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

F. 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.

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

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 installed in streams.

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, such as woody debris installed in streams.

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.

F. Projects involving in-water work may not commence without having obtained all applicable city, 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, the 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 shall be restored using vegetation or other means.

I. Waste material resulting from the installation and removal of an in-water structure shall be deposited in an approved upland disposal site outside of the shoreline jurisdiction.

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

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

L. In-water structures designed by public entities shall include public access under SMP Section 4.06 whenever feasible. At a minimum, in-water structures should not decrease public access or the use potential of shorelines.

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.

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. 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 rea Lewis County Shoreline Restoration Plan, and the plans of the Lower Columbia Fish Recovery Board, identify potential restoration priorities and projects in shoreline areas throughout the city. These plans 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 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 adverse change to river 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 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.

H. Review[FE4] of restoration projects shall occur as follows:

1. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 shall be reviewed by the Department of Fish and Wildlife, and not be considered under this section.

2. Restoration projects that are not subject to RCW 77.55.181 shall be reviewed under this section. Certain projects may be exempt from the requirement for a Shoreline Substantial Development per RCW 90.58.147.

I. In accordance with RCW 90.58.580, a shoreline substantial development permit may not be required for development within the city or its UGA or that take place on land that is brought under shoreline jurisdiction due to a shoreline restoration project. 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 nonstructural 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 the use of shoreline buffers, the relocation of structures, groundwater management, and planning and regulatory measures that seek to avoid the need for stabilization structures.

6.07.01 POLICIES

A. Use structural shoreline stabilization measures only when nonstructural 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, 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 the lots created will not 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 or down-current 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 the protection of cultural or archeological resources, ecological enhancement and restoration projects, or hazardous substance remediation projects. Pursue nonstructural measures first, and structural measures when nonstructural measures are infeasible or would be insufficient to achieve the 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 developments that require shoreline stabilization measures that cause significant impacts to adjacent or down-current properties and shorelines shall not be allowed.

3. Land subdivisions shall be designed to assure that future development of the created lots will not 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 as demonstrated by a geotechnical analysis.

5. If the applicant submits a proposal that is consistent with the critical area buffer requirements in SMP Appendix 2: Critical Areas Regulations and expected to have little need for future shoreline stabilization as proposed, the Shoreline Administrator

may waive the need for a geotechnical analysis to be conducted per Sections 6.07.02(A)(3) and (4).

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 are 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 of 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 material that is entirely situated above the footings or bottom course of rock is not considered a new structure and it qualifies as maintenance and repair, so long as the other requirements of this section are not triggered.
    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.
    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(F) and the SMP.

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 Flood Hazard Stabilization Structures

Where a project is specially intended to reduce flood hazards, a flood hazard shoreline stabilization structure shall only be allowed when a scientific and engineering analysis demonstrates:

1. That the structure is necessary to protect existing development;
2. That nonstructural measures are not feasible;
3. That impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and
4. That appropriate vegetation conservation actions are undertaken consistent with SMP Chapter 4.04.

E. Standards to Demonstrate Need for Other Shoreline Stabilization Structures

1. New shoreline stabilization structures shall only be allowed, when demonstrated to be necessary as follows:
    a. 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.
    b. In support of water-dependent development when all of the conditions below apply:
        1) Site erosion is not being caused by upland conditions, such as drainage and the loss of vegetation;

2) 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

3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.

c. In support of new non-water-dependent development, including residences, when all of the conditions for water-dependent development from SMP Section 6.07.02(D)(2) apply and nonstructural measures, such as placing the proposed development farther from the shoreline are not feasible or sufficient to address the erosion impacts adequately. Natural processes must be causing the shoreline erosion.

d. To protect historic or cultural resources, or as part of restoration or hazardous substance remediation projects pursuant to Chapter 70.105D RCW, when nonstructural 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.

2. A geotechnical analysis is not required when an applicant proposes to replace an existing shoreline stabilization structure with a softer measure, unless the project is deemed necessary by the Shoreline Administrator. To help determine the need for a geotechnical analysis, the applicant shall submit site photographs and a written narrative that describes 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.

3. 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 is 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.

F. 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, minimized, or mitigated.

   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 considered a regulated activity subject to the regulations in SMP Section 6.03 and require a shoreline substantial development permit or 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. New structures that are specifically designed for flood hazard reduction shall be placed landward of associated wetlands and designated vegetation conservation areas, except when the measure would increase ecological functions, such as when included as part of a wetland restoration. Provided that, such flood hazard reduction structures may be authorized if it is determined that no other alternative to reduce the flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

i. 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.

j. 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.

k. 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.

l. Shoreline stabilization structures shall be designed to ensure that the project remains stable during storm and flood events on streams and rivers.

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

n. Shoreline stabilization shall be designed not to 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. Publicly financed or subsidized shoreline erosion control measures shall allow appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

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

G. Submittal Requirements

In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following for a new, enlarged, or replacement shoreline stabilization structure:

1. Adequate provisions to address the standards for geotechnical reports in WAC 173-26-231(3)(a)(iii)(D).
2. 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.
3. A geotechnical analysis, when required by the Shoreline Administrator, that includes the following items:
    a. 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.
    b. The estimated time frames and rates of erosion to convey the urgency associated with the specific situation.

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, together with amendments or additions thereto. 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 Interpretations

1. The Shoreline Administrator shall have authority to interpret the SMP when such interpretation is clearly consistent with the goals and policies of the 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 review every application that is submitted and determine if the application is complete based upon the information required by this section.

E. The Shoreline Administrator may recommend conditions to the City Council for the approval of permits as necessary to ensure consistency of the project with the SMA and the SMP.

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 the development standards in the MMC, Chapter 90.58 RCW, the SMA, and the 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. Applications for shoreline substantial development permits, conditional use permits, and variances shall be processed in accordance with the provisions of the SMP.

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

E. 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.

F. 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 of 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, if any;
7. A statement of preliminary determination, if one has been made; and
8. Any other information determined appropriate by the Shoreline Administrator.

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 Lewis 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 local newspaper.
4. Any other manner deemed appropriate by the Shoreline Administrator to accomplish the objectives of reasonable notice to adjacent landowners and the public.

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. When a public hearing is required, public notice shall be given at least 15 days before the public hearing. The notice shall include 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 City Council.

G. The public notice shall also state that a person interested in the City Council 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 City Council 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

A. A shoreline substantial development permit shall be granted by the Shoreline Administrator only when the development proposed is consistent with the following:

1. Goals, policies and use regulations of the SMP;
2. The local jurisdiction's 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; Chapter 173-26 WAC, and Chapter 173-27 WAC).

B. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-150. The Shoreline Administrator 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 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. Additional criteria

may be considered when deemed necessary by the Shoreline Administrator in accordance with WAC 173-27-210.

B. Uses that are not classified or set forth in the SMP may be authorized as shoreline conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for shoreline conditional uses contained in the SMP.

C. Uses that are specifically prohibited may not be authorized.

D. The City Council may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

E. The decision of the City Council 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 criteria in WAC 173-27-140 and WAC 173-027-170 shall constitute the minimum criteria for review and approval of a shoreline variance. Additional criteria may be considered when deemed necessary by the Shoreline Administrator in accordance with WAC 173-27-210.

B. Uses that are specifically prohibited may not be authorized.

C. The City Council may attach conditions to the approval of the shoreline variance as necessary to assure consistency of the proposal with the above criteria.

D. The decision of the City Council 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 shoreline 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 shoreline 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. 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.

D. For exempt development proposals subject to review, approval, and permitting by a state or federal agency in shoreline jurisdiction or identified in the SMP as requiring a shoreline letter of exemption, the Shoreline Administrator shall prepare a shoreline letter of exemption in accordance with WAC 173-27-050(1). The shoreline letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040(2) that are being applied to the development and it shall provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP. The shoreline letter of exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

E. 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 shoreline 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 shoreline 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. In accordance with MMC Title 17, the City Council shall hold at least one open record public hearing on each application for a shoreline conditional use permit or variance.

B. 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 City Council 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.

C. When the City Council renders the final decision, the City Council 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 the SMP.

7.05.03 NOTICE OF DECISION

A. The Shoreline Administrator shall notify the following persons in writing of the City Council's final approval, conditional approval, or disapproval of a shoreline conditional use permit or variance within 14 days of the City Council's final decision:

1. The applicant;
2. Ecology;
3. The State Attorney General;
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 FILING WITH ECOLOGY

A. All applications for a permit or a permit revision shall be submitted to Ecology upon a final decision by local government. Final decision by local government shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

B. When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

C. A complete submittal shall consist of the following documents and information:

1. A copy of the complete application pursuant to WAC 173-27-180;

2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable master program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s) as established in WAC 173-27-140 through 173-27-170;
3. The final decision of the local government;
4. The permit data sheet required by WAC 173-27-190; and
5. Where applicable, local government shall also file the applicable documents required by chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under chapter 43.21C RCW.

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

E. Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to subsections (C) and (D) of this section have been received by Ecology. If Ecology determines that the submittal does not contain all of the documents and information required by this section, it shall identify the deficiencies and so notify local government and the applicant in writing. Ecology will not act on conditional use permit or variance submittal until the material requested in writing is submitted.

F. "Date of filing" of a local government final decision involving approval or denial of a substantial development permit is the date of actual receipt by Ecology of a local government's final decision on the permit.

G. "Date of filing" involving approval or denial of a variance or conditional use permit, is the date of transmittal of Ecology's final decision on the variance or conditional use permit to local government and the applicant.

H. Ecology shall provide a written notice to the local government and the applicant of the "date of filing."

I. Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with Ecology and the Attorney General.

J. When a permit has been appealed pursuant to RCW 90.58.180, upon conclusion of all review proceedings, a copy of the final order shall be provided by the local government to Ecology. When the project has been modified in the course of the review proceeding,

plans or text shall be provided to the local government, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan and the local government shall reissue the permit accordingly and submit a copy of the reissued permit and supporting documents consistent with subsection (C) of this section to Ecology for completion of the file on the permit. The purpose of this provision is to assure that the local and Ecology files on the permit are complete and accurate and not to provide a new opportunity for appeal of the permit.

7.05.05 DEVELOPMENT START

A. Development in accordance with a shoreline substantial development permit, conditional use permit, or variance shall not be authorized until 21 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 21 days of the date of such filing have been terminated.

7.05.06 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 Washington 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, 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 shoreline letter of exemption follows the Land Use Petition Act (LUPA) judicial review of land use decisions process found in Chapter 36.70C RCW.

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 the 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 in accordance with WAC 173-27-100.

C. If the revision involves a shoreline conditional use permit or variance, 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 NONCONFORMING DEVELOPMENT

A. Nonconforming 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, that does not conform to present regulations or standards of the SMP. Provided that, legally established existing residential structures and appurtenances located landward of the OHWM and outside the floodway that do not meet the standards of this program are considered to be conforming.

B. For nonconforming shoreline uses, development or structures, the following standards shall apply:

1. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline buffers established in the SMP.

2. A nonconforming use, development, or structure, which is moved any distance, must be brought into conformance with the SMA and the SMP.

3. 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.

4. A use that is listed as a shoreline 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. If the use seeks to expand, however a shoreline conditional use permit shall be required.
5. 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. If an applicant seeks to expand the non-conformity, the expansion will require further review as a shoreline variance.

7.08 ENFORCEMENT AND PENALTIES

7.08.01 ENFORCEMENT

A. The provisions of MMC 17.04 relating to enforcement shall apply to the SMP.

B. 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.

C. 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.

D. The enforcement procedures and penalties contained in Part II of WAC 173-27 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 city code, RCW 90.58.210 and RCW 90.58.220, and WAC 173-27-270 and WAC 173-27-280.

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 may sue for damages under SMP Section 7.08.

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 to pay a delinquent permit penalty at the discretion of the city.

7.09 SHORELINE MASTER PROGRAM – ADMINISTRATION

7.09.01 GENERAL ADMINISTRATION

A. The city shall keep a record of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.

B. As part of an SMP update, the city shall consider the cumulative impacts of recent development on the ecological functions of the shoreline. As part of shoreline permit review process, the city 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. The number of shoreline permits issued within the shoreline jurisdiction;
2. The changing character of the shoreline, including heights of new structures and setbacks from the OHWM, as a result of new development or redevelopment;
3. The changing nature of riparian canopy along the shoreline, as evaluated through a comparison of aerial photographs over time;
4. The amount of new public access points or restoration sites;

5. The amount of shoreline stabilization and modifications; and
6. Significant historic or cultural resources identified 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. During this amendment process, the city should use a process that is 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 197-26-201 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.

8 DEFINITIONS

8.01 UNLISTED WORDS OR PHRASES

A. 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.

B. In shoreline jurisdiction, any conflicts between definitions found in both the city code and the SMP shall be resolved in favor of the definition in the SMP or the SMA.

C. The Shoreline Administrator may obtain secondary definition sources from one of the following sources:

1. City code.
2. Any city resolution, ordinance, policy, or regulation.
3. The most applicable statute or regulation from the state.
4. Legal definitions generated from case law or provided within a law dictionary.
5. 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 use.

Act – The Washington State Shoreline Management Act (SMA) (Chapter 90.58 RCW and WAC 173-27), as amended.

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 WAC 173-26-020.

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.

Associated Wetlands – Those wetlands that are in proximity to, and either influence or are influenced by, a river 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. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

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 OHWM. 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.

Boat Ramps and Launches – Boat ramps and launches include graded slopes, slabs, pads, planks, or rails used for launching boats.

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, as specified in SMP Chapter 5: Specific Shoreline Use Policies & Regulations. A building setback protects the 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

Channel Migration Zone (CMZ) – The area along a river or stream within which the channel can reasonably be expected to migrate over time because of normally occurring processes. It encompasses that area of lateral stream channel movement that can be identified by credible scientific information that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. The area within which a river channel that is likely to move over an interval of time is referred to as the CMZ or the meander belt.

Chapter 90.58 RCW – The Shoreline Management Act of 1971, as amended.

Cities – The cities of Centralia, Chehalis, Morton, and Winlock

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.

Comprehensive Plan – The document, including maps, adopted by the city in accordance with the GMA (Chapter 36.70A RCW and Chapter 36.70B RCW, as amended) and applicable state law.

Conditional Use – A use, development, or substantial development that is classified as a shoreline conditional use or is not classified within the applicable SMP. Refer to WAC 173-27-030(4).

County – Lewis County.

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

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

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)).

Docks – Docks are structures that float upon the water and are used as a landing or moorage place for watercraft. Docks are distinct from piers, which are built on fixed platforms supported by piles above the water. Some piers may terminate in a float section that is connected by a ramp.

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 channel depths or berths for navigational purposes; other dredging is for cleanup 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 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.

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.

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 to 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.

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 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 – 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 Guidelines require 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.

Feasible Alternatives – Alternatives to the proposed project that will accomplish essentially the same objective as the original project while avoiding or having less adverse impacts.

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.

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)).

Flood course – See SMP Flood course.

Floodway – The area that has either: (i) has been established in FEMA flood insurance rate maps (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.

G

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.

Growth Management Act (GMA) – Chapter 36.70A RCW and Chapter 36.70B RCW, as amended.

Guidelines – See Shoreline Master Program (SMP) Guidelines, Chapter 173-26 WAC.

H

Hazard Tree – Any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, which, because of its location, is at risk of damaging permanent physical improvements to property or causing personal injury.

Height – Measured from average grade level to the highest point of a structure: provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating

height, except where 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 Resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

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 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.

In-Stream Structure or In-Water Structure – A structure placed by humans within a stream or river 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.

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)).

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.

M

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.

Mixed-use – Means a development or structure that includes a combination of components, such as water-oriented and non-water oriented activities. A mixed-use project that includes all non-water oriented components shall be considered entirely non-water oriented.

Must – A mandate; the action is required.

N

Native Vegetation – Vegetation comprised of plant species that are indigenous to Morton and Western Washington.

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, 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

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 fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Overwater 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

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).

Piers – Piers are structures that are built on fixed platforms supported by piles above the water that are used as a landing or moorage place for watercraft. Piers are distinct from docks, which float on the water. Some piers may terminate in a float section that is connected to the remainder of the structure by a ramp.

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 that 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. Refugia habitat;

I. Limited availability;

J. High vulnerability to habitat alteration; or

K. Unique or dependent species.

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 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.

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.

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.

R

RCW – Revised Code of Washington.

Recreational Facilities – Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement.

Recreational Floats – Recreational floats are independent anchored offshore platforms, used for water-dependent recreational activities such as swimming and diving.

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 or stream.

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

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 or 2010 flood channel study areas and the SMP Flood Course and contiguous flood plain areas landward 200 feet from such adopted FEMA floodways or 2010 flood channel study areas and the SMP Flood Course; and all wetlands and river deltas associated with rivers or streams, which are subject to the provisions of the SMA.

Shoreline Administrator – As appointed by the City Council, the 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 water body.

Shoreline Environment Designations – The categories of shorelines established by the 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 in the city 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 are 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) Flood Course – The basis for determining the extent of the floodway as agreed to by Ecology and the Coalition in 2013 for the purposes of determining the areas subject to the SMA. For the Coalition, the 2010 flood channel study areas and the SMP Flood Course were used to determine the extent of the floodway for determining the areas

subject to the SMA in those jurisdictions. The use of the term "SMP Flood Course" does not affect the designation or treatment of floodways as outlined SMP Section 4.04 or SMP Section 4.05.

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, 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 nonstructural methods such as building setbacks. 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, or enforcement penalty. 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, directions, b) identifying, advertising a place, establishment, product, good, or service.

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.

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)).

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.

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 (WAC 173-22-030(8)).

Strict Construction – The close or narrow reading and interpretation of a statute or written document.

Structural Shoreline Stabilization – Hard structural stabilization measures refer to those with solid, hard surfaces, such as 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, 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.

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)).

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)).

Significantly Degrade – To cause significant ecological impact.

T – U

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 applicable 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).

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 the WSDOT acting within or in accordance with its authority, the city 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.

Weir – A low dam built across a stream to raise its level, divert its flow, or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have

negative impacts depending on how they are constructed, such as detrimental effects on fish habitat conditions.

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.

APPENDIX 1: SHORELINE ENVIRONMENT DESIGNATION MAP

Lewis County, Washington
Shoreline Master Program
Map 26C -
Shoreline Environment Designations
Figure: Morton
Date: 7/3/2015
Shoreline Environment Designation
Aquatic
Urban Conservancy
Shoreline Residential
High Intensity
SMA Rivers & Streams
SMA Lakes
Highways
City
UGA
0 0.075 0.15 Miles
1:13,000
Data: Lewis County, USFWS, NWI, FEMA,
WA DNR, WSDOT, USGS, NAIP
Lewis County Coalition
City of Morton City of Winlock
GeoGIS

APPENDIX 2: CRITICAL AREAS REGULATIONS

[Critical areas regulations in effect on the 26th date of September, 2016, contained in the city's CAO will be attached.][BM5]

CITY OF MORTON

CRITICAL AREAS ORDINANCE

Sections 17.32.030 - 17.32.055.4 , City of Morton Zoning and Development Regulations

Section 17.32.030 Critical Area, CR, district

A. Purpose and Intent: The Critical Area special district overlays critical areas defined pursuant to the Washington State Growth Management Act, RCW 36.70A. The purpose of this section is to provide for reasonable protection of the natural environment and public health, safety and welfare, to implement the City of Morton Comprehensive Plan, and to comply with mandated federal and state requirements for critical area protection. This section incorporates best available science as defined by WAC 365-195-905 in determining appropriate measures to protect the functions and values of critical areas and the preservation of anadromous fisheries. Sections 17.32.030-17.32.055 shall be known as the City of Morton Critical Area Ordinance.

17.32.030.1 CR District- Applicability: All areas within the City and the Morton Urban Growth Area (UGA) meeting the definition of one or more of the following critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section:

A. Wetlands, as designated in section 17.32.035.1;
B. Fish and wildlife habitat conservation areas, including riparian habitat management areas, as designated in subsection 17.32.040.1;
C. Frequently flooded areas as designated subsection 17.32.045.1.
D. Geologically hazardous areas as designated in subsection 17.32.050.1; and
E. Critical aquifer recharge areas as designated subsection 17.32.055.1.

The City shall process permits and approvals within the Morton UGA in accordance with this section.

17.32.030.1.1 Reference maps and information. Critical areas defined in this Section are displayed in general form on a variety of reference materials. These materials do not depict detailed information about the type, size, and specific location of critical areas, but will be relied on for planning purposes and for regulatory purposes in the absence of more detailed information on a specific site. Reference materials include but are not limited to:

A. The City of Morton Comprehensive Plan map (critical areas), as amended;
B. The City of Morton Critical Aquifer Recharge Area map, as amended;
C. Lewis County Public Works GIS Map Library (includes aerial photos);
D. FEMA Flood Insurance Rate Maps;

E. US Fish and Wildlife Service National Wetlands Inventory;
F. Washington State Department of Fish and Wildlife Priority Habitats and Species Maps;
G. US Geological Survey topographic maps.

17.32.030.2 Critical area review required- Critical Area Report. The City shall not grant any permit or approval required by this Title or under the building code or subdivision regulations to alter the condition of land, water, or vegetation on a parcel or project site that includes an identified critical area or critical area buffer, or is likely to affect an identified critical area within 300 feet of the boundary of the project site according to best available science, prior to fulfilling the requirements of this section, unless the activity is specifically exempted in subsection 17.32.030.5. Such permits or approvals include, but are not limited to: building permits, conditional use permits, shoreline permits required under the Lewis County Shoreline Master Program, variance, subdivisions and short subdivisions, or rezones. As part of all permit applications, the City shall require a Critical Area Report to be submitted by the applicant, including the following information:

A. Site description, including a site map of a scale no smaller than 1" = 200', showing existing vegetation, all critical areas, including their type and size, if known, and existing and proposed structures or development areas;
B. An assessment of whether the proposed use or activity will be built or commenced consistent with this section;
C. Whether proposed alterations to an identified critical area(s) is necessary for purposes of the proposed use or activity;
D. What mitigation may be required to offset potential impacts to an identified critical area;
E. Any additional information required by the specific critical area section, below.

The City may establish fees to cover the costs of review of projects including critical areas. Critical area review will occur according to the same timeline required for the associated permit review, or 120 days, whichever is shorter.

17.32.030.3 Protection of Critical Areas- Best Available Science- Preservation of critical area functions. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

17.32.030.4 Relationship to Other Regulations.

A. This Section shall apply as an overlay and in addition to other regulations in this Title and other regulations adopted by the City.
B. Where multiple buffers or overlays are present (e.g., if one critical area is adjacent to or concurrent with another critical area), or where other setbacks or regulations provided in this Title occur with critical areas standards, the most restrictive standard shall apply.
C. These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any

conditions required pursuant to this Section shall be included in the SEPA review and threshold determination.

D. Compliance with the provisions of this Section does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this Section.

17.32.030.5 Exempt activities. The following activities are exempt from review under this section provided that they are otherwise consistent with the provisions of this Title and other local, state, and federal laws and requirements:

A. **Emergencies.** Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Section. Emergency actions must be designed to have the least possible impact to the critical area or its buffer. The State Department of Fish and Wildlife requires a verbal or written Hydraulic Project Approval (HPA) before taking emergency action that could change the natural flow or bed of waters of the state; notice should be given to the 24-hr HPA hotline number, 360-902-2537 prior to taking action. In addition, the person or agency undertaking such action shall notify the City within one (1) working day following commencement of the emergency activity. If the City determines that the action was taken beyond the scope of emergency actions allowed in this subsection, the City will determine what enforcement provisions may be required. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action. A mitigation plan shall be reviewed by the City, and all mitigation must be completed in a timely manner.

B. **Existing and ongoing activities and related maintenance or repair.** Operation, maintenance, or repair of existing structures, utilities, public or private roadways, railways, dikes, levees, or drainage systems within the existing use area, that does not further encroach upon an identified critical area, and that utilizes best management practices. This does not include widening or upgrading existing roadways or stream crossings.

C. **Passive recreation, education, and research.** Outdoor, passive recreational activities including fishing, birdwatching, hiking, swimming, and paddling, so long as no built infrastructure is required to support the activity, except that:
    1. Wildlife watching blinds or viewing structures are permitted in the wetland and riparian area buffers only;
    2. Unpaved nature trails or perviously-paved trails and raised boardwalks are permitted in wetland and riparian buffers only, so long as the wetland or riparian area's functions and values will not be adversely impacted by the trail.

D. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from City's jurisdiction.

E. **New utility corridors and drilling for utilities.** New utility corridors shall be aligned outside of wetland buffers and riparian habitat areas and buffers established for other fish and wildlife habitat conservation areas to the maximum extent possible. Drilling under a wetland or riparian area is allowed provided that the drilling does not interrupt the ground water connection to the wetland or stream or percolation of surface water down through the soil column. A hydrologic study by a qualified hydrologist is necessary to determine whether the ground water connection to the wetland or stream or percolation of surface water down through the soil column is disturbed. Utility transmission lines, cables, sewer and water lines may cross streams using existing crossings where possible. Utility corridors shall be revegetated immediately upon completion of construction, and no pesticides, herbicides, or other hazardous substances may be used in the maintenance of such corridors within a wetland or buffer or fish and wildlife habitat conservation area or buffer.

F. **Existing and ongoing agriculture.** Parcels or portions of parcels that have been in use for existing and ongoing agricultural activities from DATE OF ORDINANCE EFFECTIVENESS may continue, subject to best management practices, without requiring additional critical area review under this ordinance. This exemption does not include crop conversions that would alter flood storage capacity or conveyance, significant increase in the number of livestock using the critical area, or any activity that would require a new building permit or other permit or approval under this Title.

G. **Removal of hazard trees.** Removal of dead or dying trees or vegetation that present a windfall hazard posing potential risk to the public or subject property. The City can require a qualified arborist to provide information certifying that the tree proposed for removal is a hazard tree.

H. **Stormwater retention.** Retention/detention and biofiltration facilities for improving surface water quality to the extent permitted by federal and state law is permitted in the outer 25% of Category III or Category IV wetlands, as defined in this section. Stormwater facilities are not otherwise permitted in Fish and Wildlife Habitat buffers.

I. **Boundary and survey markers or site investigative work.** Provided that disturbance shall be temporary and minimized and disturbed areas shall be immediately restored.

J. **Enhancement of a critical area through the removal of non-native invasive species.** Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be re-vegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs.

K. **Harvesting of wild crops in wetlands.** Wild crops may be harvested from wetlands 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.

L. **Fencing.** Fencing may be required in a critical area buffer by the City as part of a proposed activity or as required in Section. Fencing shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to wildlife habitat and hydrology.

M. **Replacement of nonconforming structures.** Nonconforming structures may be replaced within 12 months of demolition or destruction to the existing footprint of the previous structure, provided there is no feasible alternative location outside an

established critical area or buffer. A property owner may apply for a variance to allow and extension of this time limit, and/or to allow limited expansion of the footprint (no greater than 50%), provided all other building setbacks required by this Title are met.[1]

17.32.030.6 Reasonable use exception. If the application of this section would deny all reasonable use of the property, development may be permitted consistent with the protection of public health and safety, and to the minimum disturbance necessary to permit the use. An application for a reasonable use exception must be filed with the City and shall be heard by the Planning Commission with legal advice from the City Attorney. The Planning Commission shall hold a public hearing and make a recommendation to the City Council, who shall issue the final decision. An approved mitigation plan using best available science to minimize and mitigate impacts shall be required as a condition of the reasonable use exception.

17.032.030.7 Variance. Variance procedures are available in accordance with Section 17.60

17.32.030.8 Violations and enforcement. A person or entity who fails to conform to the terms of sections 17.32.030-17.32.055 shall be construed as having violated the City of Morton Zoning and Development Regulations, subject to section 1.110 (Violation-Penalty). The City of Morton may stop work on a project if it finds that the project does not comply with any requirements imposed by sections 17.32.030-17.32.055, or if the applicant or permittee has not complied with any or all of the conditions or limitations set forth in the permit.

Wetlands

17.32.035.1 Wetland identification and classification. Known wetlands locations are mapped in the City of Morton Comprehensive Plan, using data provided by the National Wetlands Inventory and Lewis County. However, this map shall be used only as a guide, and wetlands discovered in the course of site investigation for a permit or approval required by this Title are subject to review under this subsection. It is the responsibility of the applicant to provide information from a qualified biologist or wetland specialist as to the location and extent of the wetland using the *Washington State Wetland Identification and Delineation Manual* (1997), http://www.ecy.wa.gov/programs/sea/pubs/96-94.html, and the wetland class/category using the Washington State Department of Ecology wetland rating system (*Washington State Wetland Rating System for Western Washington, http://www.ecy.wa.gov/biblio/0406025.html*).

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[1] An amendment to Section 12.021 Nonconforming structures- replacement is also proposed: If an existing nonconforming structure is destroyed by fire or an act of nature, it may be replaced in the footprint of the previous nonconforming use, subject to necessary modifications to provide for public health and safety, within 12 months of the destruction. If replacement can't be completed within 12 months, the property owner may apply for a variance to extend this time limit. Older mobile homes and manufactured homes must be replaced by a designated manufactured home with a manufacture date of not more than five years from the date of installation, or may be replaced by a stick-built home in the same footprint as the previous home. A property owner may apply for a variance to allow limited expansion of the footprint (no greater than 50%), provided all other building setbacks required by this Title are met.

17.32.035.2 Allowed activities within wetlands and wetland buffers. Activities exempted in subsection 17.32.030.5 are allowed in wetlands and their buffers without requirement of a Critical Area Report.

17.32.035.3 Density transfer and PUD option. A planned unit development (PUD) in accordance with Section 17.32.050 may be used for subdivision proposals on project sites with wetlands, excluding building of single family homes on existing lots or activities listed under Section 17.32.030. Through a PUD, density may be transferred from the wetland portion of the site to the upland portion of the site, with net density not to exceed that of the underlying zoning district. A wetland delineation by a qualified wetlands biologist will be required as part of the PUD review.

17.32.035.4 Wetland buffers. The following buffers are established based on the category of wetland and the impact of the proposed land use to occur adjacent to the wetland:

Wetland category: *Scoring system uses the Washington State Wetland Rating System for Western Washington*	**Low Intensity Land Uses:** Forestry (not including roads), utility corridor (without associated road), passive recreation not otherwise allowed	**Moderate Intensity Land Uses:** Residential development with net density of 1 unit/acre or less dense; Active recreation (sport courts, golf courses); New or converted moderate intensity agriculture (orchards, hay fields, other crops not requiring annual tilling); Paved trails or logging roads; Utility corridors with associated access and maintenance roads	**High Intensity Land Uses:** Commercial, Industrial, or Institutional development; Residential net densities greater than 1 unit/acre; New or converted high intensity agriculture (dairies, nurseries, greenhouses, annual crop tilling, livestock, poultry and egg production)
Category I			
Natural Heritage Wetlands	125 feet	190 feet 300 feet for septic systems	250 feet 300 feet for septic systems
Bogs	125 feet	190 feet	250 feet
Habitat score: 29 – 36 points	150 feet	225 feet	300 feet
Habitat score: 20-28 points	75 feet	110 feet	150 feet

Wetland category: *Scoring system uses the Washington State Wetland Rating System for Western Washington*	**Low Intensity Land Uses:** Forestry (not including roads), utility corridor (without associated road), passive recreation not otherwise allowed	**Moderate Intensity Land Uses:** Residential development with net density of 1 unit/acre or less dense; Active recreation (sport courts, golf courses); New or converted moderate intensity agriculture (orchards, hay fields, other crops not requiring annual tilling); Paved trails or logging roads; Utility corridors with associated access and maintenance roads	**High Intensity Land Uses:** Commercial, Industrial, or Institutional development; Residential net densities greater than 1 unit/acre; New or converted high intensity agriculture (dairies, nurseries, greenhouses, annual crop tilling, livestock, poultry and egg production)
Water quality score: 24-32 points and Habitat score: < 20 points	50 feet	75 feet	100 feet
Not meeting any of the above characteristics	50 feet	75 feet	100 feet
Category II			
Habitat score: 29 – 36 points	150 feet	225 feet	300 feet
Habitat score: 20-28 points	75 feet	110 feet	150 feet
Water quality score: 24-32 points and Habitat score: < 20 points	50 feet	75 feet	100 feet
Not meeting above characteristics	50 feet	75 feet	100 feet
Category III			
Habitat function score: 20-28 points	75 feet	110 feet	150 feet
Habitat score < 20 points	40 feet	60 feet	80 feet
Category IV			
Score < 30 points for all functions	25 feet	40 feet	50 feet

Except as otherwise specified or allowed in accordance with this Title, wetland buffers shall be retained in an undisturbed or enhanced condition. No development activity is permitted within these buffers, except those activities exempted under subsection 17.32.030.5 (Exempt Activities) or as permitted through a variance or reasonable use exception. Removal of vegetation in these buffers is prohibited, except as part of an approved habitat management plan or mitigation plan or as allowed under this section.

17.32.035.5 Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary outward on a horizontal plane as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations under section 17.32.035.9 shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Existing lawns, walkways, driveways, structures and other mowed or paved areas will be deducted from the measurement of buffer width. If a wetland buffer overlaps with another buffer or critical area (e.g., riparian buffer or 100-year flood zone), the wider buffer prevails.

17.32.035.6 Habitat connectivity required.
If a project site includes any portion of a forested wetland or any wetland with a high habitat score (29 –36 points in the *Washington State Wetland Rating System for Western Washington*), the applicant must identify and maintain wildlife corridors with habitat areas listed in section 17.32.040 *(Fish and Wildlife Habitat Conservation Areas)* for species known or assumed to occur within the wetland. If this corridor is at least 100 feet wide, is vegetated with native vegetation, and is subject to permanent protection (e.g., is placed in an open space tract or has a conservation easement), then the required wetland buffer may be reduced by 25%.

17.32.035.7 Wetland buffer averaging. The width of a wetland buffer may be reduced in one area and increased proportionally in another area if such averaging will not impair or reduce the functions and values of the wetland, e.g., for erosion control, groundwater recharge, or habitat protection, and provided that the buffer is in no location reduced by more than 25%. However, a wetland buffer may not be reduced in any area to less than 25 feet. Buffer averaging may not be used in conjunction with any other buffer reduction.

17.32.035.8 Special requirements for High Intensity Land Uses.
For High Intensity Land Uses listed in section 17.32.035.4, the following requirements apply, regardless of wetland category:

A. Outdoor lighting must be shielded or directed away from the wetland;
B. Noise-generating activities must be located as far from the wetland buffer boundary as practicable;
C. Pesticide use must be limited, and integrated pest management practices must be used;
D. New stormwater runoff from lawns and impervious surfaces must be dispersed and infiltrated, not channeled to the wetland buffer (does not apply to stormwater treatment facilities in the buffer as limited by subsection 17.32.030.5);
E. Fencing of the wetland to prevent pet and human disturbance may be required;
F. Best management practices must be used for all agricultural activities.

17.32.035.9 Wetland mitigation. Avoidance of wetland impacts is required as a first approach to development near a wetland. If, via a reasonable use exception or variance, alteration or loss of a wetland function or value does occur, the project proponent must submit a mitigation plan by a qualified wetland biologist to replace the functions and values lost by the wetland. This mitigation plan must include annual project monitoring for a period of 10 years, with reports to the City in years 1, 2, 3, 5, 7, and 10. Mitigation must include either restoration of the disturbed area, or creation or enhancement of wetland areas to compensate for wetland losses. A mitigation plan that relies on replacement of wetland areas either on site or within the city limits or UGA must justify its mitigation rations by best available science and apply the following wetland replacement ratios (expressed in terms of acres):

Category I:	6:1
Category II:	3:1
Category III:	2:1
Category IV:	1.5:1

The above ratios must be doubled for mitigation that relies on enhancement of wetland areas. For example, the ratio for enhancement in a Category II wetland would be 6:1. In addition, the City may require these ratios to be increased if there is uncertainty as to the success of a restoration or creation project. The City may require review of mitigation plans by the Washington State Department of Ecology.

17.32.035.91 Wetland banking. The City of Morton encourages the creation of a public or private wetland mitigation banking system when feasible. An applicant may use a mitigation bank established in accordance with Washington State Department of Ecology rules and upon approval of the City, to meet the requirements of subsection 17.32.035.9.

Fish and Wildlife Habitat Conservation Areas

17.32.040.1 Fish and wildlife habitat conservation areas- mapping. Fish and Wildlife Habitat Conservation Areas are not specifically mapped, except in the case of streams and wetland locations, which are shown in the City of Morton Comprehensive Plan Critical Areas Map. However, this map is intended as a guide only. Applicants must rely on best available science to provide information on the known locations of fish and wildlife habitat conservation areas and the width of buffers associated with them.

17.32.040.2 Fish and wildlife habitat conservation areas- designation.
The following areas are designated as fish and wildlife habitat conservation areas subject to the requirements of this Section:

A. Areas With Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association:

1. Site with federally designated endangered and threatened species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish

and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

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

B. **State Priority Habitats and Areas Associated With State Priority Species as listed on the most current Washington State Department of Fish and Wildlife Priority Habitats and Species (PHS) list.** 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.

C. **Locally important habitats or species.** Riparian areas associated with Connolly Creek, Tilton River, and Lake Creek are considered locally important habitats. Additional habitats or species of local importance may be designated by the City after review by the Planning Commission and a public hearing. Individuals may also nominate habitat or species of local importance through a Comprehensive Plan Amendment process. To be considered, nominations must include recommendations for habitat or species protection based on Best Available Science, including the Washington State Department of Fish and Wildlife PHS management recommendations, if available.

D. **Other fish and wildlife habitat areas.** In addition to the areas described above, the following habitats are subject to the requirements of this section:

1. Naturally occurring ponds under twenty acres and their associated submerged aquatic beds;
2. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or
3. State natural area preserves and natural resource conservation areas.

17.32.040.3 Fish and Wildlife Habitat Conservation Areas- standards for non-exempt activities. The City shall review all activities proposed to alter or impact a fish and wildlife habitat conservation area, as determined through review of the Critical Area Report required by section 17.32.030.2, except as exempted by subsection 17.32.030.5, and shall condition any approvals supported by the best available science, as follows:

A. Establishment of Non-Riparian Buffers. The City shall require the establishment of buffer areas for activities adjacent to habitat conservation areas where necessary 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 the WDFW. Specific riparian habitat buffers are defined in Section 17.32.040.5, below.

B. Additional conditions for approval may include, but are not limited to, the following:

1. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
2. Limitation of access to the habitat area, including fencing to deter unauthorized access;
3. Seasonal restriction of construction activities;
4. Establishment of a duration and timetable for periodic review of mitigation activities; and
5. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

C. Standards for specific uses and activities. Because fish and wildlife habitat conservation areas can cover a large amount of land (e.g., elk wintering grounds), specific standards for uses and activities not otherwise exempted by subsection 17.32.030.5 are necessary to provide for reasonable development potential on private property. Consultation with WDFW can be required by the City prior to approval of the use or activity. The following standards apply to uses and activities listed below that are proposed for or located in an established fish and wildlife habitat conservation area or buffer associated with such an area:

1. New construction. New structures in fish and wildlife habitat conservation areas are permitted, subject to the other requirements in this Section, if the lot was legally created prior to EFFECTIVE DATE OF THIS ORDINANCE, or if the lot has less than 5,000 square feet of buildable area outside the fish and wildlife habitat conservation area or buffer. New construction is not permitted in riparian habitat areas pursuant to Section 17.32.040.6.
2. Onsite sewage systems and wells. New sewage systems and wells serving an approved use are allowed if there is not suitable area on the property outside the area or established buffers to accommodate the system or well. Replacement of failing onsite sewage disposal systems is permitted, provided that clearing vegetation shall be limited to the maximum extent possible. Maintenance of access trails or roads shall not involve the use of herbicides or other hazardous materials.
3. New agricultural activities. Fencing is required to keep livestock out of riparian habitat areas established pursuant to section 17.32.040.5, below). Manure and hazardous materials storage is prohibited within riparian habitat areas and buffers established by this section for aquatic areas (e.g., ponds). Drainage ditch maintenance and all other activities must follow best management practices in consultation with the local Conservation District or Natural Resources Conservation Service (NRCS) office.
4. Clearing and grading. No clearing and grading shall occur within an area where a priority species has a primary association (e.g., nesting, foraging, or roosting area) as identified in the Critical Area Report and per WDFW PHS management recommendations. Nor shall clearing and grading occur within riparian habitat areas pursuant to section 17.32.040.6. Additional requirements on the extent and timing of clearing and grading activities may be required through a habitat management plan (e.g., specifying times of year where activity is limited due to seasonal use of the site for calving or nesting).
5. Road and railroad safety and maintenance. Maintenance and safety improvements to existing roads and railroads within rights-of-way is permitted subject to best management practices accepted by the City.

Pesticides and other hazardous materials shall not be used where they could be expected to reach the undeveloped portion of the fish and wildlife habitat conservation area.

6. New road and bridge crossings. New road and bridge crossings of riparian habitat areas shall be prohibited except where there is no alternative (e.g., to provide access to existing legal lots where no other access is physically possible). Crossings shall occur where they would have the least impact on fish and wildlife habitat, and shall be aligned perpendicular to the stream channel if possible. The design of stream crossing shall be consistent with the WDFW Fish Passage Design at Road Culverts, 2003 and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000, as amended.
7. Active and water-dependent recreation. Swimming areas and fishing access may be located within riparian habitat areas and other aquatic buffers with minimal disturbance to riparian vegetation and no addition of impervious surfaces. Active use areas such as athletic fields, camping sites, and restrooms shall be located outside of buffers established for fish and wildlife habitat conservation areas.

17.32.040.4 Marking of Fish and Wildlife Habitat Conservation Areas. The outer perimeter of the habitat conservation area or buffer (riparian habitat areas or species points on the WDFW Priority Habitat and Species list) 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 no unauthorized intrusion will occur and verified by the City prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs or fencing, if required at the discretion of the City, are in place. Markers shall be placed to minimize disturbance to the habitat area.

17.32.040.5 Fish and wildlife habitat conservation areas- habitat management plans. In addition to the Critical Area Report requirements of subsection 17.32.030.2, projects on sites that contain all or a portion of fish and wildlife habitat conservation areas designated in sections 17.32.040.2(A) or (C) shall also complete a habitat management plan and submit the plan for approval with the development permit(s) required by this Title. The City *may* require a habitat management plan for projects with habitats or species 17.32.040.2(B) or (D). A required habitat management plan must be prepared by a habitat specialist or biologist and submitted with the development application. The contents of the habitat management plan are supplemental to the requirements of a critical area report, as follows:

A. Current aerial photograph of the site;
B. An inventory of priority habitats and species as listed by the Washington State Department of Fish and Wildlife;
C. A detailed description of the proposed development activity as it would potentially impact identified priority habitats or species;
D. Proposed mitigation or management approaches consistent with the Washington State Department of Fish and Wildlife Management Recommendations for Priority Habitats and Species, or other state or federal guidelines, as applicable.

The City may require the applicant to provide proof of consultation with the Washington State Department of Fish and Wildlife in the development of a habitat management plan.

17.32.040.6 Fish and wildlife habitat conservation areas- special standards for riparian habitat areas. The following buffers are required to protect habitat areas on both sides of

streams (for purposes of this section, stream typing is in accordance with WAC 222-16-031). Unless otherwise allowed in this Title, all structures and activities shall be located outside of the riparian habitat area:

A. Riparian Habitat Areas:

Stream Type	Buffer Width
Types 1 and 2	250 feet
Type 3, 5-20 feet wide	200 feet
Type 3, less than 5 feet wide	150 feet
Types 4 and 5	150 feet

B. Within riparian habitat areas, the following additional restrictions apply:
   a. No development activity that would require a permit under this Title, except for those uses exempted under section 17.32.030.5, is permitted within riparian habitat areas. Exempted activities are still subject to the requirements of this subsection for vegetation management.
   b. Any existing riparian vegetation within the habitat area shall be retained in natural state as much as is reasonably possible.
   c. Any modification to riparian vegetation within the riparian habitat area shall require review under this section and include a habitat management plan by a qualified biologist acceptable to the City. See subsection 17.32.040.2 for required contents of the habitat management plan.
   d. If vegetation requires removal for public health and safety purposes, or to control invasive species, methods nontoxic to salmonid species shall be preferred such as mechanical weed control without chemicals, or retaining tree canopy over lawn area for temperature control and or innovative approaches consistent with best available science to protect salmonid habitat.
   e. The City shall encourage restoration, mitigation and enhancement when proposed and monitored by a certified habitat biologist.

C. Measurement of riparian habitat area buffers. Width shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified. For purposes of measuring the width of a riparian habitat area from a stream located in a ravine or with a bank sloped 30% or more, the management area width will be measured from the ordinary high water mark, up the bank slope, and then horizontally from the top of the bank for a distance not less than twenty-five feet, for a total management area width at least as wide as the required buffer area, and possibly wider.

D. Buffer Averaging. The City may allow a riparian habitat area defined in this section to be reduced in accordance with a habitat management plan 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 also 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 twenty-five percent (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 best available science.

E. Alternative buffers. The applicant may provide a habitat management plan with alternative buffers to those proscribed in subsection A above, and include appropriate mitigations and enhancements of the riparian area to protect the critical values and functions of the riparian area. This plan must be created by a qualified professional and the plan must be reviewed and approved by the Washington State Department of Fish and Wildlife prior to submittal to the City. The plan must also meet the requirements of section 17.32.040.4, above.

F. Other riparian area management area regulations. The Lewis County Shoreline Master Program (SMP) shall also govern the uses permitted along designated shorelines in the City of Morton.

17.32.040.7 Fish and Wildlife Habitat Conservation Areas- Mitigation and Equivalent or Greater Biological Functions. Where there can be no avoidance of impact, mitigation of alterations to fish and wildlife 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 and achieve functional equivalency or improvement for each function. Mitigation, if proposed, must be detailed as part of the habitat management plan required under section 17.32.040.5. The City may require periodic monitoring of mitigation activities.

Frequently flooded areas

17.32.045.1 Frequently flooded areas- purpose. The purpose of this section is to prevent damage to public health and safety, structures, and sensitive areas subject to flooding, and to coordinate review of projects under the critical areas regulations with review of projects under the City's Flood Damage Prevention Ordinance and other regulations.

17.32.045.2 Frequently flooded areas-designation. Frequently flooded areas shall include:

A. Those lands within the floodway and areas of special flood hazard as determined by the most current mapping by the Federal Flood Emergency Management Act (FEMA) on the Flood Insurance Rate Maps (FIRMs) for the City of Morton and its environs (FIRM Community Panel No. 5301020505B and 5301050001C), which are available for review at the City or online at http://www.fema.gov/.

B. Additional areas of special flood hazard identified by the City based on review of base flood elevation and floodway data available from federal, state, County, or other valid sources when base flood elevation data has not been provided from the Federal Insurance Administration (A and V zones of the FIRMs). The newest and most restrictive information about flood elevations and areas of known flooding shall be used by the City in reviewing projects subject to this Chapter. The City shall maintain for public inspection all records of floodplain hazards, certificates of flood proofing, and flood elevation data.

C. Applicant may provide information. As part of the review process, the applicant may provide more detailed information which indicates that the mapping of the flood insurance program is in error or that their activities will not raise the flood elevation more than one foot. A letter from FEMA supporting the map change or activity is required before a development permit may be issued under this Title.

17.32.045.3 Frequently flooded areas- project review and permitting.

A. Development projects proposed within a frequently flooded area must comply with the permitting and review requirements of City of Morton Ordinance No. 407, Flood Damage Prevention.

B. Flood hazard assessment information shall be provided as part of the Critical Area Report pursuant to Section 17.32.045.3, with the following additional information added to that Report:
   a. The location of any floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;
   b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
   c. Clearing limits; and
   d. Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.

C. The Lewis County Shoreline Master Program shall further determine additional restrictions on uses and activities within the 100-year floodplain.

D. Where this section conflicts with Section 17.32.035, Fish and Wildlife Habitat Conservation Areas, the stricter of the sections apply.

17.32.045.4 Frequently flooded areas- special variance considerations.

A. The following special considerations apply to granting variances (pursuant to Section 17.60) to projects subject to this Section:
   1. The danger to life and property due to flooding, erosion damage, or materials swept onto other lands during flood events;
   2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the proposed use;
   3. The importance of the services provided by the proposed use to the community;
   4. The necessity to the proposed use of a waterfront location, where applicable, and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
   5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
   6. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
   7. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

B. Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances.

C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

Geologically hazardous areas

17.32.050.1 Geologically Hazardous Areas- designation. Geologically hazardous areas because of their susceptibility to erosion, sliding, earthquake, or other geological events are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. The City of Morton designates the following as the only local Geologic Hazard Areas:

A. Landslide hazard areas are those areas subject to mass movement due to a combination of geologic, topographic, and hydrologic factors, and include:
   a. Any area with a combination of:
      i. Slopes of 15% or steeper, and
      ii. Impermeable subsurface material, or
      iii. Springs or seeping groundwater from November to February.
   b. Steep slopes of 40% or greater;
   c. Any areas located on an area of known previous landslides to the Holocene Epoch movement (within 10,000 yrs); or
   d. Any area potentially unstable as a result of rapid stream incision or stream bank erosion.

17.32.050.2 Permitted uses-Geotechnical Reports: For a site containing a landslide hazard area, a Geotechnical Report is required with submittal of any building application, in addition to the Critical Areas Report required under Section 17.32.030.2, as follows:

A. Geotechnical report requirements:
   a. Site plan, including height of slope, slope gradient, and cross-section of the project area, existing improvements, proposed improvements, and location and boundary of existing landslide hazard area and any other critical areas;
   b. Water features, including the location and description of surface water runoff features and the location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal;
   c. Location and results of any test holes or excavations used to evaluate the existence of a landslide hazard;
   d. Hazard analysis characterizing the type and extend of the landslide hazard, the type of vegetative cover; and
   e. Certification by a geotechnical engineer or geologist preparing the study that:
      i. The risk of damage from the project, both on- and off-site is minimum;
      ii. The project will not increase the risk of occurrence of the hazard; and
      iii. The specific measures incorporated into the design and operation of the project to reduce the risk of damage from the hazard (see section 17.32.050.2(B)).

B. Specific engineering requirements. The technical information for a project within a landslide hazard area shall include an engineering report prepared by a licensed engineer that includes:

i. 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;

ii. Recommendations for drainage and subdrainage improvements;
iii. 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;
iv. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate; and
v. Recommendations for building siting limitations.

17.32.050.2 Landslide Hazard Area- specific standards. These standards apply to uses and activities not exempted under section 17.32.030.5:

A. Buffer Requirement. A fifty (50) foot buffer shall be established from the boundary of all landslide hazard areas as indicated in the Geotechnical Report. The size of the buffer may be increased by the City 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 and geotechnical report prepared by a qualified professional. The buffer may be reduced to a minimum of ten (10) feet when a qualified professional demonstrates to the City's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.
B. Alterations. Alterations of a landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:
   a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
   b. The development will not decrease slope stability on adjacent properties; and
   c. 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 Title. 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:
   i. 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 adopted local building code;
   ii. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
   iii. 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;
   iv. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
   v. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
   vi. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

vii. 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 a landslide hazard area or related buffer shall be prohibited, except that noxious weeds and invasive plants may be removed by hand labor or small scale motorized equipment, so long as the removal method does not pose a risk to slope stability or habitat functions;

E. Seasonal Clearing 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 the Washington State Department of Natural Resources.

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:

i. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

ii. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

iii. 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. Access roads. Access roads and utility corridors 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 landslide hazard areas and related buffers.

17.32.050.3 Erosion Control and Water Quality Monitoring. All development proposals must also meet the requirements of section 17.52, Erosion Control. In addition, if the City 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.

Critical Aquifer Recharge Areas

17.32.055.1 Critical Aquifer Recharge Areas Designation and Mapping.

A. Although the City's main public water supply does not come from aquifer sources, the potential for groundwater contamination to affect private wells or water quality is a concern. Therefore the City designates Critical Aquifer Recharge Areas (CARAs) as those recharge areas identified as "severe" or "moderate" by Lewis County Public Works Department based on soil classification and depth to groundwater, and 5-year time of travel zones within designated Wellhead Protection Zones around Group A drinking water wells. Severe or moderate aquifer recharge areas encompass most of the City and part of the UGA. This designation assumes a high vulnerability to pollution. This designation is made based on information about soil type and topography, but due to the lack of specific hydrogeologic studies for Morton, the designation of a particular site may be challenged through a hydrogeologic assessment submitted as part of a development application.

B. The location and extent of CARAs are shown on the adopted critical areas maps. Location data for Wellhead Protection Zones is maintained by the Washington State Department of Ecology. These maps are intended 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. The maps are a reference and do not provide a final critical area designation.

17.32.055.2 Permitted Activities-- Hydrogeologic Assessment Required. Activities may only be permitted in a CARA 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 effect the recharging of the aquifer. In addition to the Critical Area Report requirements of Section 17.32.030.2, some activities proposed in a CARA are also subject to a hydrogeologic assessment as specified in this section. The following Table describes the allowed, permitted with review, and prohibited activities within a CARA.

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
Allowed activities		
A. New construction-- of structures and improvements, including additions, resulting in less than five percent (5%) or 2,500 square feet (whichever is greater) total site impervious surface area	No	Activity must not result in a change of use or increase the use of a hazardous substance.
B. Parks, recreation facilities, open space, or conservation areas—development or improvement resulting in less than five percent (5%) total site impervious surface area.	No	Activity must not increase the use of a hazardous substance.
C. Residential	No	Application of household pesticides,

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
Application of Pesticides and Nutrients		herbicides, and fertilizers shall not exceed times and rates specified on the packaging. If it is found that application has exceeded these requirements, a Level 1 assessment may be required.
D. On-site domestic septic systems--releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one (1) system per one-half (1/2) acre	No	Subject to standards specified in Chapter 246-272 WAC.
E. Stormwater management systems	No	Must use appropriate best management practices in design and operation.
F. Class V injection wells used only to manage residential or rural stormwater	No	
Permitted with review		
G. Construction activities that result in five percent (5%) or more impervious site area	Level 1	
H. Activities that divert, alter, or reduce the flow of surface or ground waters, or otherwise reduce the recharging of the aquifer	Level 1	
I. Composting facilities, including storage of organic compost materials	Level 1	Materials must not contain hazardous substances.
J. Any other activity determined by the city likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer	Level 1	
K. Underground Storage	Level 2	Tanks shall be protected against corrosion,

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
Tanks with hazardous substances or wastes		constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release use material in the construction or lining of the tank that is compatible with the substance to be stored; and subject to standards of Chapter 173-360 WAC.
L. Aboveground Storage Tanks with hazardous substances or wastes	Level 2	Tanks shall not allow the release of a hazardous substance to the ground, ground waters, or surface waters; Tanks shall have a primary containment area enclosing or underlying the tank or part thereof; and Requires a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks; and Design and operation shall comply with Chapter 173-303-640 WAC.
M. Vehicle Repair and Servicing	Level 2	Activity must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used must be stored in a manner that protects them from weather and provides containment should leaks occur. The use of dry wells is prohibited, and dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity. See Chapter 173-303 WAC.
N. Use of Reclaimed Water for Surface Percolation or Direct Recharge	Level 2	Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of Ecology and Health. 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. The state Department of Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
O. Land application of wastewater	Level 2	Shall be operated in accordance with Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture.
P. Sand and gravel mining	Level 2	Subject to Chapter 332-18-015 WAC
Q. Automobile Washers	Level 2	Subject to Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
R. Chemical Treatment Storage and Disposal Facilities	Level 2	Subject to Chapter 173-216 WAC and Chapter 173-220 WAC
S. Hazardous Waste Generators, including but not limited to: Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Medical Waste Processing, Photographic Processing, Printing and Publishing Shops, etc.	Level 2	Subject to Chapter 173-303 WAC.
T. Commercial Pesticide Storage and Use	Level 2	Subject to Chapter 15.54 RCW, Chapter 17.21 RCW
U. Sawmills	Level 2	Subject to 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)
V. On-Site Sewage Systems- Large scale or at densities greater than one septic system per ½ acre	Level 2	
W. Oil and Gas Drilling	Level 2	Subject to Chapter 332-12-450 WAC and Chapter 173-218 WAC
Prohibited Uses		
X. Animal Feedlots, defined as confined animal feeding operations (CAFOs)	N/A	

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
used for fattening livestock prior to slaughter and that require a state or federal permit for operation		
Y. Junk Yards and Salvage Yards	N/A	
Z. Landfills	N/A	Hazardous or dangerous waste (Chapter 173-303 WAC- Dangerous Waste Regulations) landfills are prohibited. Municipal solid waste landfills or interim solid waste facilities are permitted if properly permitted by the State, if required, and operated in accordance with Chapter 173-304 WAC (Minimum Functional Standards for Solid Waste Handling) and Chapter 173-351 WAC (Criteria for Municipal Solid Waste Landfills).
AA. 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	N/A	Chapter 173-218 WAC. Excludes permitted aquifer remediation wells permitted by the Washington State Department of Ecology.
BB. Mining- metals and hard rock	N/A	
CC. Wood Treatment Facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade)	N/A	
DD. Storage, Processing, or Disposal of Radioactive Substances	N/A	

Activity/Use	Hydrogeologic Assessment Required?	Additional standards and conditions
EE. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source	N/A	
FF. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream	N/A	

17.32.055.3 Hydrogeologic assessment contents.

A. Level One Hydrogeologic Assessment. A level one hydrogeologic assessment is submitted along with the Critical Area Report required in Section 17.32.030.2, and shall include the following information:

1. Available information regarding geologic and hydrogeologic characteristics of the site including the time of travel zone associated with the Wellhead Protection Area, as applicable, and permeability of the unsaturated zone;
2. Groundwater depth, flow direction, and gradient based on available information (such as from well logs);
3. Currently available data on the location of wells, springs, surface waters, and other critical areas on the project site and on all immediately adjacent properties;
5. Historic water quality data for the area to be affected by the proposed activity, as reasonably available; and
6. Best management practices proposed to be utilized.

B. **Level Two Hydrogeologic Assessment**. A level two hydrogeologic assessment shall include the following information, in addition to the requirements for a level one hydrogeological assessment:

1. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five (5) year period, or as reasonably available;
2. Groundwater monitoring plan provisions;
3. Assessment of the effects of the proposed project on groundwater quality and quantity, including:
   a. Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and
   b. Predictive evaluation of contaminant transport based on potential releases to ground water; and
4. 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.

C. Preparation by a Qualified Professional. A Level 1 or Level 2 hydrogeologic assessment shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.

17.32.055.4 Additional conditions. The City may condition activities within CARAs with the requirement that the activities employ AKART (all known, available, and reasonable treatment) to ensure the highest degree of protection is afforded to the aquifer.

Definitions (all new):

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on the Flood Insurance Rate Map (FIRM) always includes the letters A or V.

"Best Management Practices" means conservation practices or systems of practices and management based on best available science that control soils erosion, reduce water quality degradation, minimize adverse impacts to surface and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

"Critical Areas" includes wetlands, frequently flooded areas, geologically hazardous areas including steep slopes, fish and wildlife habitat areas, and critical aquifer recharge areas.

"Critical area buffer" means that area which surrounds and protects a critical area from adverse impacts to the functions of that area, minimizes public safety risks, and/or which may provide wildlife habitat integrally related to the critical area.

"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), including 5-year time of travel zones within designated Wellhead Protection Zones for Group A wells regulated by the Federal Safe Drinking Water Act.

"Designated wellhead protection area" means the surface and subsurface area surrounding a water well or well field, supplying a public water supply system with over one thousand connections, through which contaminants are reasonably likely to move toward and reach such well or well field within one, five and ten years, respectively. A designated wellhead protection area is an area for which the water purveyor has adopted a wellhead protection plan and the plan has been approved by the Washington State Department of Health.

"Fish and Wildlife Habitat Conservation Areas" are 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). The extent of the area is determined by application of best available science, which includes Washington State Department of Fish and Wildlife recommendations for buffers associated with Priority Habitats and Species.

"Floodway" means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Geologic hazard areas" are defined in WAC 365-190-030(8) as "areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns."

"Habitat management plan" is a written report prepared by a qualified professional biologist with habitat or species description and including the information required by this Title.

"Mitigation" or "compensatory mitigation" means replacing project-induced critical area losses or impacts, and includes, but is not limited to, restoration, creation or enhancement.

"Project site" means the legal boundaries of the parcel or parcels of on which an applicant has applied for authority from the City of Morton to carry out a development proposal.

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lines swales, canals, detention facilities, wastewater treatment facilities, farm ponds, ponds or lakes created as a result of mineral extraction, 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 created to mitigate conversion of wetlands.

"Wetland categories" means categories established by *Wetlands in Washington State, Volume II, DOE* and *The Washington State Wetland Rating System for Western Washington.* As pertinent to the City of Morton and its UGAs, these categories are defined as follows:

Category I. Category I wetlands include wetlands that are rare; particularly sensitive to disturbance; relatively undisturbed with ecological attributes that are impossible to replace within a human lifetime; or that provide a high level of functions. They include:

a. Natural Heritage Wetlands designated by the Washington Department of Natural Resources (DNR) Natural Heritage Program due to their high quality and relatively undisturbed condition, or because they support plants listed by the DNR Natural Heritage Program as threatened or endangered;

b. Bogs larger than ½ acre;

c. Mature and old growth forested wetlands larger than one acre;

d. Wetlands with a total score for functions of 70 or more points under the Wetland Rating System for Western Washington.

Category II. Category II wetlands provide high levels of some functions and are difficult, though not impossible, to replace. They include:

a. Wetlands identified by the DNR Natural Heritage Program as containing "sensitive" plant species;

c. Bogs between one forth (¼) and one half (½) acre in size; and

d. Wetlands with functions scoring between 51 and 69 points under the Wetland Rating System for Western Washington, DOE, 2004.

Category III. Category III wetlands have functions scoring between 30 and 50 points under the Wetland Rating System for Western Washington, DOE, 2004. Typically, they have been disturbed and contain less diverse wildlife habitat or are more isolated from other habitat than Category II wetlands.

Category IV. Category IV wetlands have levels of functions scoring 29 or fewer points under the Wetland Rating System for Western Washington, 2004. Typically, they are extensively altered.

RESOURCE LIST AND CITATIONS

Assessing Earthquake Hazards and Reducing Risk in the Pacific Northwest, Albert M. Rogers, Timothy J. Walsh, William J. Kockelman, and George R. Priest, Editors Volume 2, USGS 1998, U.S. GEOLOGICAL SURVEY PROFESSIONAL PAPER 1560

- General assessment of earthquake risks in the region. Cites rockfall near Morton along Cowlitz River from previous quake.
- Rockfalls typically on sites of 45 degrees or more steep slopes.

http://pubs.usgs.gov/prof/p1560/p1560po.pdf

Critical Aquifer Recharge Areas Guidance Document. Prepared by: Laurie Morgan Washington State Department of Ecology Water Quality Program January 2005 Publication Number 05-10-028 http://www.ecy.wa.gov/biblio/0510028.html

Brazier, J. R. and Brown, G. W., 1973, "Buffer Strips for Stream Temperature Control," Forest Research Laboratory, School of Forestry, Oregon State University, Corvallis, OR.

Castelle, Andrew and A.W. Johnson, "Riparian Vegetation Effectiveness," National Council for Air and Stream Improvement, Technical Bulletin No. 799, Research Triangle Park, NC, February 2000

Cederholm, C. J., et. Al. 2000. Pacific Salmon and Wildlife Ecological Contexts, Relationships, and Implications for Management. Special Edition Technical Report, Washington Department of Fish and Wildlife.

Ecological Issues in Floodplains and Riparian Corridors, University of Washington Center for Streamside Studies, 2001.

- Describes the ecological/habitat functions of streams in Pacific Northwest.
- Channelization stresses habitat and species and changes temperature, turbidity, flow velocity, and other factors.

FEMA Federal Flood Insurance Rate Maps. www.fema.gov

- Morton does not contain shallow flooding areas (AO Zones)

Harris, R.R., S.D. Kocher, J.M. Gerstein and C. Olson. 2005. *Monitoring the Effectiveness of Riparian Vegetation Restoration*. University of California, Center for Forestry, Berkeley, CA. 33

- Discusses the relative successes of different restoration projects.

Hruby, Thomas. *Washington State Wetland Rating System for Western Washington*. Washington State Department of Ecology publication no. 04-06-015 http://www.ecy.wa.gov/biblio/0406025.html

- Describes functions and values of different wetland types in W. Washington.

Johnson, A.W. and D.M. Ryba, 1992. A Literature Review of Recommended Buffer Widths to Maintain Various Functions of Stream Riparian Areas. Prepared for King County Surface Water Management Division, Department of Natural Resources, Seattle, WA, by Aquatic Resource Consultants, Seattle, WA, and Puget Sound Native Plants, Renton, Washington.

Landslides and Landslide Hazards in Washington State Due to February 5-9, 1996 Storm. USGS.

U.S.Geological Survey,Geologic Hazards Team, 1711 Illinois St.,Golden, CO 80401and U.S.Geological Survey, 345 Middlefield Rd.,Menlo Park, CA 94025 http://landslides.usgs.gov/learningeducation/docs/Wash_hrp.pdf

- No immediate future landslide threat identified in Morton area. Discussion of general causes behind actual landslides in Washington.

Lewis County Hazard Mitigation Plan (draft), Lewis County Public Works. http://www.co.lewis.wa.us/PublicWorks/GIS/HMP_Web/HMP.htm

- Contains hazard map of Morton area (no landslide hazards specifically identified; flood zones only)

Mayer, P.M., S.K. Reynolds, M.D. McCutchen, and T.J. Canfield. *Riparian buffer width, vegetative cover, and nitrogen removal effectiveness: A review of current science and regulations.* EPA/600/R-05/118. Cincinnati, OH, U.S. Environmental Protection Agency, 2006.

- Thus, wider buffers are more likely to be efficient zones of nitrogen removal, whereas, narrower buffers may not always remove significant portions of nitrogen.
- Grass buffers were significantly less effective than forest buffers at removing nitrogen
- Based on current studies, riparian buffers of various types are effective at reducing nitrogen in riparian zones, especially nitrogen flowing in the subsurface. Buffers generally are more effective where soil type, hydrology, and biogeochemistry
- are conducive to microbial denitrification and plant uptake. While some narrow buffers (1-15 m) removed nitrogen, wider buffers (>50 m) more consistently removed significant portions of nitrogen probably by providing more area for root uptake of nitrogen or more sites for denitrification.

Salmon and Steelhead Habitat Inventory and Assessment Program, Washington State Department of Fish and Wildlife. http://wdfw.wa.gov/hab/sshiap/

- Databases provided information on fish species on Morton streams

Sidle, R. C., and A.J. Pearce, and L.L. O'Loughlin. 1985. Hillslope stability and land use. Water Resources Monograph Series edition. Volume 11. American Geophysical Union, Washington. D.C.

Spence, B.C., G.A. Lomnicky, R.M. Hughes, and R.P. Novitzki. 1996. An ecosystem approach to salmonid conservation. TR-4501-96-6057. ManTech Environmental Research Services Corp., Corvallis, OR. http://www.nwr.noaa.gov/Publications/Guidance-Documents/upload/mantech-partI.pdf

- Regardless of land-use type, riparian buffers are recommended on all streams; their dimensions will depend on the setting and level of protection desired.
- Riparian vegetation provides numerous functions including shading, stabilizing streambanks, controlling sediments, contributing large woody debris and organic litter, and regulating the flux and composition of nutrients
- Three important considerations in establishing buffer zones are: 1) the width of the buffer zone, 2) the level of activity allowed within the riparian zone, and 3) whether riparian buffers are needed for tributary streams that do not contain salmonids. Appropriate buffer widths are the topic of much debate and a number of alternative approaches for determining adequate buffer widths have been proposed. The appropriate width of buffer zones depends on the specific functions that are being considered.

Spiker, Elliott C., Gori, P. 2003. National landslide hazards mitigation strategy- a framework for loss reduction. Circular 1233. U.S. Geological Survey, Reston, VA. http://pubs.usgs.gov.circ/c1244/c1244.pdf

- Land-use planning is one of the most effective and economical ways to reduce landslide losses by avoiding the hazard and minimizing the risk.
- Control of surface-water and ground water drainage is the most widely used and generally the most successful slope-stabilization method.

Washington Department of Ecology. 1993. Slope Stabilization and Erosion Control Using Vegetation. Publication No. 93-30, Olympia, WA http://www.ecy.wa.gov/programs/sea/pubs/93-30/index.html

- When properly installed and maintained, vegetation can protect slopes by reducing erosion, strengthening soil, and inhibiting landslides which increase general slope stability. The use of vegetation to manage erosion and protect slopes is relatively inexpensive, does not require heavy machinery on the slope, establishes wildlife habitat, and can improve the aesthetic quality of the property. (guidance mostly applicable to coastal areas)

Washington Department of Fish and Wildlife *Management Recommendations for Washington's Priority Habitats: Riparian,* 1997. http://wdfw.wa.gov/hab/phsrecs.htm

Washington Department of Fish and Wildlife Habitats and Species Information, http://wdfw.wa.gov/hab/phsorder_may1706.pdf

- Report of Morton area PHS species and habitat locations generated

Washington Department of Natural Resources (DNR), March 2000 and July 2004 (draft) Forest Practices Board Manual, Section 16 Guidelines for Evaluating Potentially Unstable Slopes and Landforms. http://www.dnr.wa.gov/forestpractices/board/manual/

- Description of different landslide hazards and processes.
- Description of recommended contents of geotechnical report.

Wetlands in Washington - Volume 1: A Synthesis of the Science (Publication #05-06-006), Washington State Department of Ecology http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume1final.html

Wetlands in Washington - Volume 2: Guidance for Protecting and Managing Wetlands (Publication #05-06-008), Washington State Department of Ecology http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html

Wetland Replacement Ratios: Defining Equivalency, Washington State Department of Ecology, 1992, Publication #92-08.

- Ratios for wetland mitigation defined and discussed (applied to this draft).
- Establishes rating system (point-based) for wetland function and relative value.

McMillan, Andy. State Wetlands Delineation Manual, 1996. Washington State Department of Ecology publication no. 96-94. http://www.ecy.wa.gov/biblio/9694.html

- Washington State's official manual for delineating wetlands. Delineation manuals are used to determine the edge of a wetland based on three "parameters:" water, plants, and soil.

- Guidelines and methods to determine whether an area is a wetland and to delineate its boundaries for purposes of Section 404 of the federal Clean Water Act, the state Shoreline Management Act, or local regulations adopted under requirements of the Growth Management Act.

Management Recommendations for Washington's Priority Habitat sand Species, Elizabeth Rodrick and Ruth Milner, Washington Department of Fish and Wildlife, 1991.

Priority Habitats and Species List, Washington Department of Fish and Wildlife. http://wdfw.wa.gov/hab/phslist.htm

NatureServe Explorer, www.natureserve.org

- Provides information (county level) on important species and habitats found in the area.

Washington State Wellhead Protection Program Guidance Document, Washington State Department of Health Publication #331-018, April 1995

Washington's Source Water Assessment Program (SWAP), June 2005. Washington State Department of Health
http://www.doh.wa.gov/ehp/dw/Publications/331-148_washington_source_water_assessment_program_6-22-05_web.pdf

- Also used interactive GIS map to identify Group A wells in Morton area and determine vulnerability.

Washington State Department Of Community, Trade, And Economic Development, Model Critical Areas Ordinance and *Citations Of Recommended Sources Of Best Available Science For Designating And Protecting Critical Areas.*
HTTP://QA.CTED.WA.GOV/_CTED/DOCUMENTS/ID_874_PUBLICATIONS.PDF

Water Supply Bulletin No. 17, *Geology and Groundwater Resources of West-Central Lewis County,* WA, Weigle, J.M. and B.L. Foxworthy, USGS, 1962
http://www.ecy.wa.gov/programs/eap/wsb/pdfs/WSB_17_Book.pdf

- General description of geologic and hydrologic processes and forms in the area.