



*[Jurisdiction Name]*  
**Shoreline Master Program**

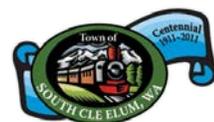
Adopting Resolution *[Resolution No.]*

Effective Date: *[DATE]*

**January 2013 Initial Draft**

Ecology Grant No: G1200054

*[Insert appropriate logo:*



*]*

*[Jurisdiction Name]*  
Shoreline Master Program

*[Placeholder for other front matter, such as acknowledgement of Department of Ecology grant; names of technical and citizen advisory committees, staff, and consultants; and names of elected officials]*

This document is a deliverable for **Phase 3** of Ecology Grant No: G1200054

**January 2013 Initial Draft**

Prepared by:

Kittitas County  
411 North Ruby, Suite 1  
Ellensburg, WA 98926  
Contact: Doc Hansen  
509-962-7046

Van Ness Feldman GordonDerr  
719 Second Avenue, Suite 1150  
Seattle, WA 98104  
Contact: Anna M. Nelson, AICP  
206-623-9372

Environmental Science Associates  
5309 Shilshole Ave NW, Suite 200  
Seattle, WA 98107  
Contact: Margaret Clancy  
206-789-9658



**VanNess  
Feldman  
GordonDerr**



*[Effective Date]*

This document should be cited as: Kittitas County/Van Ness Feldman GordonDerr 2013. Draft Shoreline Master Program. Kittitas County Regional Shoreline Master Program Update. January 2013. Seattle, WA.

## **A Note to Readers of the January 2013 Initial Draft SMP:**

This document is an initial draft for review and comment by the Department of Ecology, the public, and advisory committees. This SMP has been created to comply with the Shoreline Management Act (RCW 98.58) and the Department of Ecology's shoreline master program guidelines (WAC 173-26). In some cases, provisions from other master programs in similar jurisdictions were also consulted, and in other cases, text from the existing 1975 SMP has been carried over or slightly modified. Where appropriate, the source of master program policies or regulations is shown in italicized brackets, for example [*WAC 173-26-221*], [*Douglas County*], or [*1975 Kittitas SMP*]. If a section was created new for this SMP, it is shown as [*New*]. Additional notes to the reader, or placeholders to be completed in future a future draft also appear in italicized brackets.

Revisions to this initial draft will be made based on input received from the Department of Ecology, as well as comments from the public, advisory committees and further review and analysis by the participating jurisdictions. A final draft will be circulated for public review and comment in late April 2013, as required by Phase 3 of the SMA Grant Agreement No. G1200054 between Kittitas County and the Department of Ecology.

*[Jurisdiction]*  
Shoreline Master Program

**Table of Contents**

1. Framework, purpose, principles and applicability .....	1
1.1 The Shoreline Management Act.....	1
1.2 Scope and jurisdiction of the Shoreline Master Program .....	1
1.3 Purpose and intent .....	2
1.4 Title and reference .....	4
1.5 Public involvement process, advisory committee and agency coordination .....	4
1.6 Relationship to other plans.....	6
1.7 Applicability .....	7
1.8 Governing principles .....	8
1.9 Severability.....	10
1.10 Effective date .....	10
2. Goals and objectives .....	11
2.1 Conservation element .....	11
2.2 Shoreline use element .....	12
2.3 Economic development element .....	13
2.4 Public access element .....	13
2.5 Recreation element .....	14
2.6 Circulation element .....	15
2.7 Historical/cultural element .....	16
2.8 Flood hazard prevention element.....	16
3. Environment designations and management policies .....	17

3.1	Purpose and Intent .....	17
3.2	Evaluation .....	17
3.3	Environment designations.....	17
3.4	Natural environment.....	18
3.5	Rural conservancy environment.....	20
3.6	Urban conservancy environment.....	22
3.7	Shoreline residential environment.....	23
3.8	High-intensity environment.....	24
3.9	Aquatic environment .....	25
3.10	Table 1. Shoreline Use and Modification Table .....	26
4.	General policies and regulations .....	30
4.1	Archaeological and historical resources.....	30
4.2	Critical areas .....	31
4.3	Flood hazard reduction .....	69
4.4	Public Access.....	72
4.5	Shoreline vegetation conservation .....	77
4.6	Water quality, stormwater, and nonpoint pollution.....	80
5.	Shoreline use and modification policies and regulations.....	82
5.1	General Shoreline Use Policies.....	82
5.2	General Shoreline Modification Policies.....	83
5.3	Agriculture.....	83
5.4	Aquaculture .....	85
5.5	Boating facilities, marinas, piers, and docks .....	86
5.6	Commercial development .....	88
5.7	Dredging and dredge material disposal.....	89

5.8	Filling, grading, and excavation.....	91
5.9	Forest Practices .....	93
5.10	Industrial and port development.....	94
5.11	In-stream structures.....	96
5.12	Mining .....	97
5.13	Recreation .....	100
5.14	Residential development.....	102
5.15	Shoreline stabilization .....	103
5.16	Shoreline habitat enhancement .....	108
5.17	Signs.....	109
5.18	Transportation.....	109
5.19	Utilities .....	111
5.20	Shoreline bulk and dimensional standards .....	113
5.21	Table 2. Shoreline Use and Dimensional Standards Table.....	118
6.	Administration and Procedures.....	119
6.1	Purpose.....	119
6.2	Applicability .....	119
6.3	Permit Exemptions .....	122
6.4	Types of Permits .....	124
6.5	Review Authority .....	125
6.6	Review Criteria.....	126
6.7	Review Procedures .....	128
6.8	Appeals .....	131
6.9	Timing .....	132
6.10	Revisions .....	132

6.11 Liberal construction..... 134

6.12 Enforcement ..... 134

6.13 Amendments to Master Program ..... 135

7. Definitions ..... 138

Appendices ..... 151

A. Shoreline Environment Designation Maps [Attached Separately] ..... 151

B. Shoreline Environment Designation Descriptions [Attached Separately] ..... 151

C. Community Visioning Report [Attached Separately]..... 151

D. Inventory and Characterization Report [Forthcoming]..... 151

E. Cumulative Impacts Analysis [Forthcoming] ..... 151

F. Restoration Plan [Forthcoming]..... 151

G. Monitoring Plan [Forthcoming] ..... 151

## **1. Framework, purpose, principles and applicability**

Sections:

- 1.1 The Shoreline Management Act
- 1.2 Scope and jurisdiction of the Shoreline Master Program
- 1.3 Purpose and intent of the Shoreline Master Program
- 1.4 Title and reference
- 1.5 Public involvement process, advisory committee and agency coordination
- 1.6 Applicability
- 1.7 Governing principles
- 1.8 Severability
- 1.9 Effective date

### **1.1 The Shoreline Management Act**

[RCW 90.58.010 – RCW 90.58.020]

The Washington State Shoreline Management Act (SMA; the Act) was passed by the legislature in 1971 and adopted by a vote of Washington's citizens in a 1972 referendum (RCW 90.58). The goal of the Shoreline Management Act is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The Act also recognizes that "shorelines are among the most valuable and fragile" of the state's resources.

The Act provides for the management and protection of the state's shoreline resources by requiring planning for their reasonable and appropriate use. The area designated to be regulated under the Act generally includes lands within two hundred (200) feet of the shoreline.

The Shoreline Management Act establishes a balance of authority between local and state government. Cities and counties have the primary review responsibility for development along their shorelines, and the state (through the Department of Ecology) has authority to review local master programs and local shoreline development permit decisions.

### **1.2 Scope and jurisdiction of the Shoreline Master Program**

The SMA applies to all 39 counties and more than 200 cities of Washington State that have "shorelines of the state" (see RCW 90.58.030(2)) within their jurisdictional boundaries. These shorelines are defined as:

- All marine waters;
- Streams with greater than 20 cubic feet per second mean annual flow;
- Lakes 20 acres or larger;
- Upland areas called shorelands that extend 200 feet landward, in all directions

## [Jurisdiction] Shoreline Master Program

on a horizontal plane, from the edge of the ordinary high water mark of these waters; and

- The following areas when they are associated with one of the above:
  - Wetlands and river deltas; and
  - Floodways and contiguous floodplain areas landward 200' from such floodways.

The Act recognizes that certain waters are so important to citizens as to necessitate a special status for classification and protection. These are "shorelines of statewide significance." WAC 173-18-040(2)(b) further clarifies which streams and rivers in Eastern Washington are considered "shorelines of statewide significance." The Columbia River is a shoreline of Statewide Significance. The SMA also states that "the interests of all the people shall be paramount in the management of shorelines of statewide significance." These shorelines of statewide significance are defined in the SMA as:

- Pacific Coast, Hood Canal and certain Puget Sound shorelines;
- All waters of Puget Sound and the Strait of Juan de Fuca;
- Lakes or reservoirs with a surface area of 1,000 acres or more;
- Larger rivers (1,000 cubic feet per second or greater for rivers in Western Washington, 200 cubic feet per second and greater east of the Cascade crest);
- Wetlands associated with any of the above; and
- Those "shorelands" associated with the water bodies identified above.

Specifically in Eastern Washington, the Act lists the following criteria for defining "shorelines of statewide significance" (RCW 90.58.030(2)(f)(v)(B)):

*Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer.*

Kittitas County, the Cities of Ellensburg and Cle Elum, and the Town of South Cle Elum, originally adopted a regional shoreline master program in 1975, which was not revised, with the exception of minor map amendments, until now. Within the County there were 9 lakes and 18 creeks and rivers that were listed under the Shoreline Management Act. The jurisdictional areas of this updated regional program have changed. A set of shoreline environment designation maps depicting the jurisdictional areas are included as Appendix A to this SMP. Shoreline environment designation descriptions are included in Appendix B.

### **1.3 Purpose and intent**

*[Douglas County and RCW 90.58.020]*

The purpose and intent of this SMP are to:

[Jurisdiction] Shoreline Master Program

1. To promote the public health, safety and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of shorelines within Kittitas County and the participating jurisdictions;
2. To manage shorelines in a positive, effective and equitable manner; and
3. To further assume and carry out the responsibilities established by the Act for the participating jurisdictions, and to adopt and foster the following policy contained in RCW 90.58.020 for shorelines of the State:

*It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

*The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:*

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

*In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of*

## [Jurisdiction] Shoreline Master Program

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

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

### **1.4 Title and reference**

This Document shall be known and may be cited as the “[Jurisdiction] Shoreline Master Program”. This Document may be referred to herein as the, “Program”, “Master Program”, “Shoreline Master Program”, or “SMP”.

### **1.5 Public involvement process, advisory committee and agency coordination**

[New]

#### **1. Public Information and Outreach**

This SMP was updated as part of a multi-jurisdictional update process with Kittitas County serving as project lead. Participating jurisdictions were Kittitas County, the City of Ellensburg, the City of Cle Elum, and the Town of South Cle Elum. The participating jurisdictions created a multi-phased approach to involve the public in the development of the SMP throughout the update effort consistent with the Shoreline Management Act (see RCW 90.58.130) and the SMP Guidelines (WAC 173-26-090). Through their role as project lead, the County prepared a public participation plan that identified specific objectives and key stakeholders (planning commissions, citizens, property owners, local and state agencies, cities and the county, tribal governments, etc.), and established timelines for public participation activities.

#### **2. Multi-jurisdictional SMP Update Coordination**

The SMP update process was closely coordinated among Kittitas County, the Cities of Ellensburg and Cle Elum, and the Town of South Cle Elum. An interlocal agreement was adopted to define the responsibilities of each jurisdiction, and to define how resources from a Department of Ecology grant would be allocated and assigned.

Kittitas County provided the primary professional and clerical support and was responsible for project management and contracting. Environment Science Associates

## *[Jurisdiction]* Shoreline Master Program

(ESA) provided technical consulting. Staff assigned by the cities and town coordinated the cities' efforts on shorelines within their respective municipal boundaries. The cities/town were responsible for reviewing and commenting on recommended shoreline environment designations; reviewing and commenting on goals, policies and use regulations for applicable environment designations and restoration plans; and approving the final SMP through local adoption processes.

The County coordinated the SMP update process with the Department of Ecology, Washington State Department of Fish and Wildlife, tribal governments and other state agencies as required in the SMP update guidelines. In addition, the County consulted with other entities for scientific, technical or cultural information including federal agencies, watershed planning units, conservation districts, public utility districts, and other institutions as needed.

### 3. Shoreline Visioning Process

To provide kick-off the process of developing the regional SMP, community-wide visioning sessions were held to elicit citizen input on how the shoreline areas should look 5-10 years from now. Citizens and interest groups were asked to provide input on topics such as public access, water-related and water-dependent uses, recreation, restoration activities and more. Visioning meetings were held in Ellensburg and Cle Elum. Additionally, a community visioning questionnaire was distributed widely through the County to solicit feedback on these same issues. A summary of the community visioning process can be found in Appendix C of this SMP.

### 4. Regional Shoreline Master Program Website

An Internet web page was developed within the Kittitas County World Wide Web site for the project to provide a forum for the public to obtain information regarding the regional SMP update and to provide comments and input related to the project. The web page contained details related to the development of the SMP update process including: background materials; public participation plan and process timeline; a list of frequently asked questions and links; information on how to participate in the process, including a community visioning questionnaire, information on advisory committees, meeting materials and meeting summaries; and key contacts. The web page was kept current and maintained throughout the duration of the update.

### 5. Technical Advisory Committee

The purpose of the Technical Advisory Committee (TAC) was to help focus technical discussions and identify key technical and policy issues associated with the SMP update process. Kittitas County, with input from the Cities/Town invited a group of representatives within the scientific community from statewide agencies, the Yakama Nation, the private sector, and academia to participate on the TAC. The TAC provided input on date inventory and materials collection, shoreline characterization, shoreline

## [Jurisdiction] Shoreline Master Program

analysis, shoreline designations, shoreline restoration, and monitoring and enforcement efforts. The TAC met monthly between April 2012 and December 2012. Meetings were open to the public.

### 6. Open Public Forums and Public Meeting Events

Open public forms, i.e. public meetings events, including open houses and a workshop, were developed as an early action strategy to improve public knowledge and investment in the regional SMP update process. Later in the update process, open public forums provided opportunities for the jurisdictions to present draft goals, policies, and regulations, as well as a place for citizens to obtain information regarding shoreline management and provide comments and input relating to the update of the regional SMP. Open public forums were held in July 2012 (two open houses), September 2012 (community visioning workshop), and November 2012 (open house) [*update to add additional meetings*]. Additional targeted outreach was conducted by County staff by attending a regular meeting or meeting with individuals of the following groups: Master Building Association, Kiwanis of Ellensburg and Cle Elum, the Kittitas Field and Stream Club, the Kittitas County Farm Bureau, and the Cattlemen's Association.

### 7. Citizen Advisory Committee

The Citizen Advisory Committee (CAC) was established to finalize recommendations on environment designations, goals, policies and use regulations. Representatives were selected by each of the four participating jurisdictions, which included one planning commission member or elected official from each jurisdiction. The jurisdictions coordinated their selections to achieve a diverse mix of interests including agriculture, recreation, power generation, real estate/development, environment, sporting and conservation. Invitations to participate were also extended to the Washington State Departments of Ecology, Natural Resources, and Fish and Wildlife, and the Yakama Indian Nation. The committee began meeting in October 2012 and continued through October 2013.

#### **1.6 Relationship to other plans**

The Growth Management Act defines shoreline master program policies as a part of the local comprehensive plan:

*For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under Chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (RCW 36.70A.480 (1))*

## *[Jurisdiction]* Shoreline Master Program

Counties and cities that plan under the Growth Management Act are required, under RCW 36.70A, to ensure that there is mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). This requirement also requires consistency between the shoreline master program and the future land use plan, specifically demonstrating that there is consistency regarding:

1. The ability of physical aspects of the plan to coexist on the available land; and
2. The ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

In addition, the Growth Management Act also calls for coordination and consistency of comprehensive plans among local jurisdictions:

*The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues.*

### **1.7 Applicability**

The following statements establish the applicability of this SMP in *[insert applicable jurisdiction]*.

1. All proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58 RCW, the Shoreline Management Act, and this Program whether or not a permit or other form of authorization is required. See Section 1.2 for the definition of shoreline jurisdiction; Chapter 6 for permit procedures, and Chapter 7 for definitions of uses, activities, and development.
2. This SMP does not apply to the following activities:

*[WAC 173-26-191(2)(a)(iii)(A); WAC 173-27-060(3); Chelan County; 1975 Kittitas SMP, page 1-2]*

- a. Interior building improvements that do not change the use or occupancy;
- b. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
- c. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
- d. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections.

*[Jurisdiction]* Shoreline Master Program

3. The shoreline permit procedures, policies and regulations established in this SMP shall apply *[jurisdiction]*-wide to all nonfederal uses, activities, and development.
4. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
5. Federal lands include, but are not limited to, National Forests, National Parks, National Wilderness Areas, and lands owned by the Federal Bureau of Land Management (BLM). The following subsections shall guide the determination of SMP applicability on federal lands:
  - a. Federal development on federally owned land is not subject to this SMP nor required to obtain a Shoreline permit, unless otherwise required by federal law or unless the state by statute has ceded all regulatory authority over the federal ownership;
  - b. Federal development on a federally owned lease is not subject to this SMP nor required to obtain a Shoreline permit, unless otherwise required by federal law or unless the state by statute has ceded all regulatory authority over the federal ownership as long as the development is consistent with the purpose of the lease;
  - c. Development on federally owned land under a federal lease or easement for a non-federal activity is subject to this SMP and must obtain a Shoreline permit; for example, the SMP applies to private activities on federal land such as leases where the private citizen owns the structure but the federal government owns the land;
  - d. Non-federal development or use on federally owned land is subject to this SMP and must obtain a Shoreline permit;
  - e. Development on non-federal land is subject to this SMP and must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership unless the state by statute has ceded all regulatory authority over the federal ownership.
6. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.
7. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.

**1.8 Governing principles**

*[WAC 173-26-186]*

The following principles, in conjunction with the policy statements of RCW 90.58.020, establish the foundation for the goals, policies and regulations of this Program:

*[Jurisdiction]* Shoreline Master Program

1. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
2. The policies of this Program may be achieved by diverse means, one of which is the regulation of development. Other means authorized by the Act include, but are not limited to: acquisition of lands and/or easements by purchase, or gift; public facility and park planning, watershed planning, voluntary salmon recovery projects and incentive programs.
3. Regulation of private property to implement Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to civil rights guaranteed by the US and State constitutions, recent federal and state case law, and state statutes.
4. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
5. The waters of the state are owned by the citizens of the state. The property rights accrued to the citizens of the state must not be infringed upon by activities that denigrate the value of this ownership interest.
6. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.
7. The policies and regulations established by the Regional Shoreline Master Program must be integrated and coordinated with those policies and rules of the comprehensive plans and development regulations adopted by the participating jurisdictions under the Growth Management Act (GMA).
8. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. Permitted and/or exempt development, actions taken prior to the Act's adoption, and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects the shoreline ecology from such impairments in the following ways:
  - a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.
  - b. By including policies and regulations designed to achieve no net loss of those ecological functions, including regulations and mitigation standards ensuring that both permitted development will not cause a net loss of ecological function of the

*[Jurisdiction]* Shoreline Master Program

- shoreline and that permit-exempt development will not cause a net loss of ecological function of the shoreline.
- c. By including regulations and use of regulatory incentives designed to protect shoreline ecological functions, as well as restore impaired ecological functions where such functions have been identified, consistent with the Restoration Plan contained in Appendix F.
  - d. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
  - e. By including policies and regulations that coordinate shoreline management while protecting private property rights, consistent with the public interest.
9. In light of other relevant local, state, and federal regulatory and non-regulatory programs, the *[jurisdiction]* will balance the policy goals of this Program to the extent consistent with the policies of the Act and these governing principles, and modify this Program to reflect changing circumstances.

**1.9 Severability**

*[Douglas County]*

Shall any chapter, section, subsection, paragraph, sentence, clause or phrase of this Program be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Program.

**1.10 Effective date**

*[Douglas County]*

This Program and all amendments thereto shall become effective immediately upon final approval and adoption by the Department of Ecology.

## 2. Goals and objectives

Sections:

- 2.1 Conservation element
- 2.2 Shoreline use element
- 2.3 Economic development element
- 2.4 Public access element
- 2.5 Recreation element
- 2.6 Circulation element
- 2.7 Historical/cultural element
- 2.8 Flood hazard prevention element

### 2.1 Conservation element

*[WAC 173-26-191(1)(b)(f); 1975 Kittitas SMP, page 3-1, and Douglas County]*

#### A. Goals

- 1. Develop and implement management practices that will conserve and sustain shoreline resources and important natural features and protect and promote restoration of shoreline ecological functions and processes.
- 2. Protect the ecological functions and values of the shoreline areas to ensure no net loss.

#### B. Objectives

- 1. Unique, rare and fragile natural features as well as scenic vistas, fish and wildlife habitats and native shoreline vegetation should be preserved.
- 2. Ensure that utilization of a resource avoids and minimizes adverse impact to natural systems and quality of the environment of the shoreline.
- 3. Preserve the scenic and aesthetic quality of shorelines and vistas to the greatest extent feasible.
- 4. New development should be located and designed to avoid impacts to shoreline natural resources and the functions provided by these resources. Where there is no feasible alternative, require that adverse impacts be mitigated to achieve no net loss of shoreline ecological functions.
- 5. Shoreline development projects should follow best management practices that protect water quality.
- 6. Provide for integrated critical area standards in the Shoreline Master Program with the policies and regulations of the local jurisdiction, as provided in Section 4.2.

## **2.2 Shoreline use element**

*[WAC 173-26-191(1)(b)(e); 1975 Kittitas SMP, page 3-1, and Douglas County]*

### **A. Goal**

1. Consider the use and development of shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, forestry, natural resources, recreation, education, public buildings and grounds, utilities and other categories of public and private land uses in relation to the natural environment and ensuring no net loss of ecological function.

### **B. Objectives**

1. Shoreline use preference should be given to single family residential uses, ports, shoreline recreational uses, and water-dependent commercial or industrial development that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be allowed only when substantial public benefit is provided with respect to the goals of the Act for public access and ecological restoration.
2. The location, design, and management of shoreline uses should be balanced to prevent a net loss of shoreline ecological functions and processes over time. Where adverse impacts are unavoidable, require mitigation to ensure no net loss of shoreline ecological functions.
3. Proposed residential developments should be compatible with or enhance the aesthetic quality of the shoreline area.
4. Residential development should be designed and located to preserve the natural landscape and shoreline ecology and minimize conflicts with present and planned land uses.
5. Mixed use developments that include and support water-oriented uses and provide a substantial public benefit consistent with the public access and ecological restoration goals and policies of the Act should be encouraged.
6. New high intensity uses within shoreline jurisdiction should be located in areas that are not susceptible to erosion and flooding and where impacts to ecological functions can be avoided.
7. New developments and redevelopment projects should plan for and control stormwater runoff and when required provide appropriate treatment consistent with state and local standards.

### **2.3 Economic development element**

[WAC 173-26-191(1)(b)(a); 1975 Kittitas SMP, page 3-1, and Douglas County]

#### **A. Goal**

The natural features of the shorelines, significant recreational opportunities and the agriculture and forest products industry in Kittitas County attract many people to the region as residents, business owners, tourists, and second home owners. Support uses that would contribute to the region's economy while maintaining the qualities and functions of the shorelines, including flood prone areas and channel migration zones.

#### **B. Objectives**

1. Protect current agricultural and commercial forest land uses and provide for new environmentally sensitive resource-based development.
2. Develop, as an economic asset, the recreational industry along shorelines in a manner that will enhance the public enjoyment of the shorelines and provide an economic benefit to the community.
3. Ensure that any economic activity taking place in the shoreline operates in a manner that protects shoreline ecological functions and processes. Unavoidable impacts to shorelines should be minimized and mitigated.
4. Encourage appropriate new water-dependent, water-related, or water-enjoyment activities along shorelines not prone to flooding, consistent with this Program.
5. Proposed economic use of the shoreline should be consistent with local comprehensive plans and this Program.

### **2.4 Public access element**

[WAC 173-26-191(1)(b)(b); 1975 Kittitas SMP, page 3-2, and Douglas County]

#### **A. Goals**

1. Provide safe, convenient and diversified access for the public to the publicly owned shorelines of Kittitas County, including within the cities of Ellensburg and Cle Elum, and the town of South Cle Elum, and assure that public access facilities will recognize the rights of private property owners, will not endanger life, and will not adversely affect fragile natural areas and resources.
2. Develop a network of well-planned and maintained access opportunities for the public to enjoy the physical and aesthetic qualities of shorelines of the state, including views and physical access, consistent with the other goals and policies of this Program. [1975 SMP and Douglas County]

## *[Jurisdiction] Shoreline Master Program*

### B. Objectives

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state, while protecting private property rights and public safety.
2. Access to shorelines is encouraged and should be incorporated into both private and public shoreline development proposals. Private access developed for residential development may be limited to owners within that development.
3. Encourage the acquisition of suitable upland shoreline properties to provide public access to publicly owned shorelines. Shoreline reaches with limited access opportunities should be prioritized, where compatible with the shoreline environment.
4. Encourage the development of additional public access to the shoreline on lands owned by the county, state, and federal government and through public easements.
5. Acquisition and design of public access facilities should take into consideration the diverse needs of residents and visitors.
6. Public access should be located, designed, developed, managed and maintained in a manner that protects shoreline ecological functions and processes.
7. Visual access to shorelines should be provided and protected.
8. Public access should be designed and maintained so that negative impacts to surrounding properties (e.g. trespass and litter) are eliminated or reduced.

### **2.5 Recreation element**

*[WAC 173-26-191(1)(b)(c); 1975 Kittitas SMP, page 3-1, and Douglas County]*

#### A. Goal

1. Provide opportunities and space for diverse forms of water-oriented recreation.

#### B. Objectives

1. Give priority to water-oriented shoreline recreational development that is primarily related to access, enjoyment and use of the water and shorelines of the state.
2. Recreational areas should be located, designed, developed, managed, and maintained in a manner that protects shoreline ecological functions and processes.
3. Recognize and protect the interests of all people of the state by providing increased recreational opportunities within shorelines of statewide significance.
4. Provide diverse choices of regional water-oriented public recreational opportunities when consistent with this Program.

[Jurisdiction] Shoreline Master Program

5. Location, design and operation of recreational development shall consider measures necessary to establish a high level of compatibility with other uses and activities and avoid negative impacts to the shoreline environment.
6. Encourage private investment in water-oriented recreational facilities that are open to the public.
7. Encourage federal, state and local governments to develop existing sites and to acquire additional shoreline property for public recreational use.
8. Encourage development of non-motorized multi-use trails that provide recreation and transportation opportunities where compatible with shoreline ecological functions. *[New, based on public comment]*

**2.6 Circulation element**

*[WAC 173-26-191(1)(b)(d); 1975 Kittitas SMP, page 3-1; and Douglas County]*

A. Goal

1. Create and maintain a comprehensive circulation system which provides for the safe, convenient, economic and diversified movement of people, goods, and services, with minimum disruption to the shoreline area and environment.

B. Objectives

1. Locate and design new circulation systems consistent with the comprehensive plans to provide for alternative modes of transportation in the shoreline jurisdiction where no net loss of ecological functions, preservation of the natural landscape, and conflicts can be minimized with existing and planned uses.
2. Transportation systems should be located, designed, developed, managed and maintained in a manner that protects shoreline ecological functions and processes. Unavoidable impacts should be minimized and mitigated.
3. Transportation systems in shoreline areas should protect and enhance physical and visual shoreline public access.
4. New road corridors for motorized vehicles should be located outside of shoreline jurisdiction unless there is no reasonably feasible alternative or location.
5. Encourage the use of waterborne transportation.

## **2.7 Historical/cultural element**

[WAC 173-26-191(1)(b)(g); 1975 Kittitas SMP, page 3-2; and Douglas County]

### A. Goal:

1. Identify, protect, preserve and, where appropriate, restore sites that have historical, cultural, educational and scientific value and/or significance.

### B. Objectives:

1. Cultural and historic sites should be protected in collaboration with appropriate tribal, state, federal and local governments. Public agencies and private parties should be encouraged to cooperate in the identification, protection and management of cultural resources.
2. Where appropriate, restore unique educational or culturally significant features to further enhance the value of the shorelines.
3. Access provided to such sites shall not degrade the cultural resource or impact the quality of the environment.
4. Opportunities for education related to archaeological, historical and cultural features should be provided where appropriate and be incorporated into public and private programs and development.

## **2.8 Flood hazard prevention element**

[WAC 173-26-191(1)(b)(h) and Douglas County]

### A. Goal

1. Prevent and minimize flood damage potential in Kittitas County, the City of Ellensburg, the City of Cle Elum, and the Town of South Cle Elum.

### B. Objectives:

1. The county and cities shall maintain the requirements of the National Flood Insurance Program.
2. New development shall occur in conformance with applicable flood prevention codes and hazard management and mitigation plans.
3. Assure that flood hazard reduction measures do not result in a net loss of ecological functions associated with lakes, rivers and streams.
4. Encourage bio-stabilization methods for erosion damage repair whenever possible.

### **3. Environment designations and management policies**

Sections:

- 3.1 Purpose and Intent
- 3.2 Evaluation
- 3.3 Environment designations
- 3.4 Natural environment
- 3.5 Rural conservancy environment
- 3.6 Urban conservancy environment
- 3.7 Shoreline residential environment
- 3.8 High intensity environment
- 3.9 Aquatic environment
- 3.10 Table 1. Use Table

#### **3.1 Purpose and Intent**

This chapter of the Shoreline Master Program is intended to meet the requirements in WAC 173-26-211. It states that:

*Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.*

#### **3.2 Evaluation**

Environment designations were created by evaluating the existing use patterns, biological and physical characteristics, zoning designations, and comprehensive plan designations. The inventory and characterization data, depicted on maps and text, was used to determine the extent of shoreline alterations.

#### **3.3 Environment designations**

The following environment designations and management policies implement and are consistent with WAC 173-26-211, Environmental Designation System, and the [jurisdiction] comprehensive plan. Each environment designation contains a purpose statement, designation criteria and a management policies component. The shoreline environment designation system includes six environments: natural, rural conservancy, urban conservancy, shoreline residential, high intensity, and aquatic as presented below.

For all areas not specifically designated, the environment designation will be rural conservancy in rural areas and urban conservancy within urban growth areas.

### **3.4 Natural environment**

[WAC 173-27-211(5)(a)]

#### **A. Purpose**

The natural shoreline environment designation is intended to protect or restore shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that are intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Future uses should be compatible with the natural characteristics that make these areas unique and valuable.

#### **B. Management Policies**

Development within this designation must be consistent with the following policies:

1. Land uses that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed. Specifically, the following new uses shall not be allowed in areas designated natural environment:
  - a. Commercial uses.
  - b. Industrial uses.
  - c. Non-water-oriented recreation.
  - d. Roads, utility corridors, and parking areas that can be located outside of “natural” designated shorelines.
2. Single family residential development may be allowed as a conditional use if the density and intensity of such use is limited to protect ecological functions and to be consistent with the purpose of the environment.
3. Commercial forestry may be allowed as a conditional use if it meets the conditions of the State Forest Practices Act and is conducted in a manner consistent with the purpose of this environment designation.
4. Preservation of the area’s ecological functions, natural features and overall character must receive priority over other potential uses.
5. Agriculture uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
6. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.
7. New development or significant vegetation removal that would reduce the capability of

## [Jurisdiction] Shoreline Master Program

vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

### C. Designation Criteria

1. A natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:
  - a. The shoreline is ecologically-intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
  - b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
  - c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety. Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, alkaline lakes, unstable bluffs, and ecologically-intact shoreline habitats.
2. Ecologically-intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily ecologically-intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically-intact is determined on a case by case basis.
3. The term ecologically-intact shorelines applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.
4. Areas with significant existing agriculture lands should not be included in the natural designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the natural designation.

### **3.5 Rural conservancy environment**

[WAC 173-27-211(5)(b)]

#### **A. Purpose**

The purpose of the rural conservancy environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities. Examples of appropriate uses include but are not limited to low impact outdoor recreation uses, agricultural uses, aquaculture, low intensity residential development, and other natural resource based low intensity uses.

#### **B. Management Policies**

Development within this designation must be consistent with the following policies:

1. Uses in the rural conservancy environment should be limited to those that sustain the shoreline physical and biological resources and uses of a temporary nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
2. Except as noted, commercial and industrial uses should not be allowed. Agriculture and aquaculture, when consistent with provisions of this program, may be allowed. Low intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.
3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.
4. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the rural conservancy environment when conducted either in a manner consistent with the environment policies and the provisions of WAC 173-26-241(h), as well as when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-1 90-070 and consistent with local comprehensive plans.
5. Development and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.
6. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-231. New development should be designed and located to preclude the need for such work.

[Jurisdiction] Shoreline Master Program

7. Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the environment. Meeting this provision will require rural density, lot coverage, vegetation conservation and other provisions.
8. New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with these guidelines to ensure that the natural shoreline functions are protected. Such shoreline modification should not be inconsistent with planning provisions for restoration of shoreline ecological functions.

C. Designation Criteria

1. Assign a rural conservancy environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:
  - a. The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, or recreational uses, or is designated agricultural lands pursuant to RCW 36.70A.170;
  - b. The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;
  - c. The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, flood plains or other flood prone areas;
  - d. The shoreline is of high recreational value or with unique historic or cultural resources; or
  - e. The shoreline has low-intensity water-dependent uses.
2. Areas designated in the comprehensive plan as “limited areas of more intensive rural development” as described in RCW 36.70A may be designated an alternative shoreline environment, provided it is consistent with the objectives of the GMA and WAC 173-26.
3. “Master planned resorts” as described in RCW 36.70A.360 may be designated an alternative shoreline environment provided the applicable master program provisions do not allow significant ecological impacts.
4. Lands that may otherwise qualify for designation as rural conservancy and which are designated as mineral resource lands pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the rural conservancy environment that allows mining and associated uses in addition to other uses consistent with the rural conservancy environment.

### **3.6 Urban conservancy environment**

[WAC 173-27-211(5)(e)]

#### **A. Purpose**

The purpose of the urban conservancy environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

#### **B. Management Policies**

Development within this designation must be consistent with the following policies:

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long-term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
2. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
3. Public access and public recreation objectives should be preferred uses and implemented whenever feasible if significant ecological impacts can be mitigated.
4. Uses in this designation are encouraged to include restoration of ecological functions in the design of project components.
5. Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
6. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the urban conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (h) and when located consistent with mineral resource lands designation criteria consistent with the comprehensive plan.

#### **C. Designation Criteria**

1. Assign an urban conservancy environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following

## [Jurisdiction] Shoreline Master Program

characteristics apply:

- a. They are suitable for water-related or water-enjoyment uses;
  - b. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
  - c. They have potential for ecological restoration;
  - d. They retain important ecological functions, even though partially developed; or
  - e. They have the potential for development that is compatible with ecological restoration.
2. Lands that may otherwise qualify for designation as urban conservancy and which are designated as mineral resource lands pursuant to RCW 36.70A.170 and WAC 365-190-070, and consistent with local comprehensive plans, may be assigned a designation within the urban conservancy environment that allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

### **3.7 Shoreline residential environment**

[WAC 173-27-211(5)(f)]

#### A. Purpose

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

#### B. Management Policies

Development within this designation must be consistent with the following policies:

1. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, the existing residential character of the area and other comprehensive planning considerations.
2. Multi-family, multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. Commercial development should be limited to water-oriented uses.

#### C. Designation criteria

## *[Jurisdiction]* Shoreline Master Program

Assign a shoreline residential environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "limited areas of more intense rural development," "master planned resorts," as described in RCW 36.70A.360, or in limited rural areas, if they are predominantly single-family or multi-family residential development or are planned and platted for residential development.

### **3.8 High-intensity environment**

*[WAC 173-27-211(5)(d)]*

#### A. Purpose

The purpose of the high-intensity environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

#### B. Policies

Development within this designation must be consistent with the following policies:

1. The Master Program is the primary guide for the location, type, density, and distribution of uses in the high intensity environment designation. Local comprehensive plans and development regulations also provide guidance and standards for development which occurs within shorelines of the state.
2. In regulating uses in the high-intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water-oriented uses should not be allowed except as part of mixed use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-201 (3)(d)(ix).
3. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated high-intensity. However, consideration should be given to the potential for displacement of non-water-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.
4. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

[Jurisdiction] Shoreline Master Program

5. Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221(4)(d).
6. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

C. Designation criteria

Assign a high-intensity environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070 if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high intensity water-oriented uses.

**3.9 Aquatic environment**

[WAC 173-27-211(5)(c)]

A. Purpose

The purpose of the aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

B. Management Policies

Development within this designation must be consistent with the following policies:

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.
4. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.

[Jurisdiction] Shoreline Master Program

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

C. Designation Criteria

Assign an aquatic environment designation to lands waterward of the ordinary high-water mark.

**3.10 Table 1. Shoreline Use and Modification Table**

[WAC 173-26-231; WAC 173-26-241; 1975 Kittitas SMP; Douglas County; Yakima County; New]

Shoreline use and modification shall be classified by the Administrator and regulated under one or more of the following applicable sections of this Program.

**Table 1: Shoreline Use and Modifications Table**

Legend

- P: Permitted with a shoreline permit
- C: Conditional use permit required
- X: Prohibited
- S: Refer to upland shoreline environment.
- NA: Use is not applicable in this environment

Proposed Land Use	Shoreline Environment Designation					
	High Intensity	Urban Conservancy	Shoreline Residential	Rural Conservancy	Natural	Aquatic
<b>Agriculture</b>						
Grazing	P	P	P	P	P	NA
Cultivation/orchards	P	P	P	P	C	NA
Buildings	P	P	P	P	C	NA
Feedlot	C	X	X	C	X	NA
Manure Lagoon	X	X	X	X	X	NA
<b>Aquaculture</b>						
Floating net pens	NA	NA	NA	NA	NA	C
On shore, confined types of facilities and accessory structures	C	C	C	C	X	NA
<b>Boating facilities and marinas</b>						
Covered over-water structures	NA	NA	NA	NA	NA	X

[Jurisdiction] Shoreline Master Program

Proposed Land Use	Shoreline Environment Designation					
	High Intensity	Urban Conservancy	Shoreline Residential	Rural Conservancy	Natural	Aquatic
Launch ramps, public/community	P	P	P	C	C	S
Launch ramps, private	X	X	X	X	X	X
Marinas	P	P	P	C	X	S
Private and joint use docks, piers, and floats	P	P	P	P	C	S
<b>Commercial</b>						
Water-dependent	P	C	X	C	X	S
Water-enjoyment	P	P	C	P	X	S
Water-related	P	C	X	C	X	S
Non-water-oriented	C	X	X	X	X	X
<b>Dredging</b>						
Dredging and dredge material disposal	C	C	C	C	X	S
<b>Filling, grading, and excavation</b>						
General (1) Requirements shall be based on corresponding primary land use in Table 1.	(1)	(1)	(1)	(1)	(1)	(1)
<b>Forest Practices</b>						
Non-federal and non-exempt practices	P	P	P	P	C	S
<b>Industrial</b>						
Water-oriented industrial development	C	C	C	C	X	S
Non-water-oriented industrial development	C	X	X	X	X	X
<b>In-stream structures</b>						
General	P	P	P	C	C	S
Dams, diversions, and tailrace structures	C	C	C	C	C	C
Channelization or dams for flood control	P	C	P	C	X	S
<b>Mining</b>						
General	C	C	X	C	X	C
Mineral prospecting	P	P	P	P	P	P
Mining within a channel migration zone	C	C	X	C	X	C
Surface oil and gas drilling	X	X	X	X	X	X

[Jurisdiction] Shoreline Master Program

Proposed Land Use	Shoreline Environment Designation					
	High Intensity	Urban Conservancy	Shoreline Residential	Rural Conservancy	Natural	Aquatic
<b>Recreational</b>						
Water-dependent	P	P	P	P	P	P
Water-enjoyment	P	P	P	P	P	P
Water-related	P	P	P	P	C	S
Non-water-oriented	C	C	C	C	X	S
<b>Residential</b>						
Single-family dwelling, including accessory dwelling unit	P	P	P	P	C	X
Two-family dwelling	P	P	P	P	X	X
Multi-family dwelling	P	P	P	X	X	X
Overwater residence	X	X	X	X	X	X
<b>Shoreline habitat enhancement</b>						
General	P	P	P	P	P	S
<b>Shoreline stabilization</b>						
Dikes/levees	C	C	C	C	X	C
Breakwaters, groins and jetties	C	C	C	C	C	C
Bulkheads and revetments	C	C	C	C	X	C
Bioengineering approaches	P	P	P	P	C	C
<b>Signs</b>						
Signage	P	P	P	P	P	X
<b>Transportation</b>						
General	P	P	P	P	X	S
Parking accessory to a permitted use	P	P	P	P	C	X
Parking not accessory to a permitted use	X	X	X	X	X	X
<b>Unclassified Uses</b>						
General	C	C	C	C	C	C
<b>Utilities</b>						
Utility facilities accessory to existing developments or undergoing shoreline review	N/A	N/A	N/A	N/A	N/A	N/A
Water System	P	P	P	P	C	S

[Jurisdiction] Shoreline Master Program

Proposed Land Use	Shoreline Environment Designation					
	High Intensity	Urban Conservancy	Shoreline Residential	Rural Conservancy	Natural	Aquatic
Utility production and processing facilities (see 5.19.B.4)	C	C	C	C	X	C
Solid waste disposal facilities	X	X	X	X	X	X
Power generating facilities	C	C	C	C	C	C
Transmission facilities (see 5.19.B.9-10)	C	C	C	C	C	C
Telecommunication towers	X	X	X	X	X	X

DRAFT

## 4. General policies and regulations

### Sections:

- 4.1 Archaeological and historical resources
- 4.2 Critical areas
- 4.3 Flood hazard reduction
- 4.4 Public access
- 4.5 Shoreline vegetation conservation
- 4.6 Water quality, stormwater, and nonpoint pollution

### 4.1 *Archaeological and historical resources*

The following provisions apply to archaeological and historic resources that are either recorded at the Department of Archeology and Historic Preservation and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with Chapter 25-48 WAC as well as the provisions of this chapter.

#### A. Policies

1. There are many archeological artifacts and historical resources along Kittitas County shorelines, particularly in the Natural and Rural Conservancy environments. Care should be taken in all shoreline environments to avoid disturbing archeological and historical resources.
2. Due to the limited and irreplaceable nature of the resources, prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the office of archaeology and historic preservation.
3. Development along shorelines should include consultation with professional archaeologists, historians, and biologists to identify areas containing potentially valuable data, and to establish procedures for salvaging the data or maintaining the area in an undisturbed condition.
4. Shoreline permits should contain special provisions which require developers to immediately stop work and notify local governments, the Department of Archeological and Historic Preservation, and affected tribes, if any possible archaeological or historic resources are uncovered during excavations.

#### B. Regulations

1. Developers and property owners shall immediately stop work and notify the local government, the Department of Archeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

## *[Jurisdiction]* Shoreline Master Program

Construction may recommence pursuant to RCW 27.44.040, RCW 27.53.040 and WAC 25-48-030.

2. Prior to issuance of a permit in areas documented to contain archaeological resources, a cultural resources site inspection or evaluation by a professional archaeologist shall be required in coordination with affected Indian tribes. The requirement to conduct a cultural resources site inspection can be waived by the Administrator. *[WAC 173-26-221(1)(c)(ii)]*
3. If a cultural resource site inspection or evaluation identifies the presence of significant historic or archaeological resources, a cultural resource management plan shall be prepared by a professional archaeologist or historic preservation professional. In addition, a permit or other requirements administered by the Washington State Department of Archaeology and Historic Preservation pursuant to RCW 27.44 and RCW 27.53 may apply. *[Douglas County SMP 4.4]*

### **4.2 Critical areas**

*[NOTE for January 2013 Draft: These critical areas regulations are written to apply in unincorporated Kittitas County. Critical areas regulations for the City of Ellensburg, the City of Cle Elum, and the Town of South Cle Elum will be provided in a jurisdiction-specific SMP. The jurisdiction-specific SMP will incorporate the existing critical areas regulations in that city/town. Draft critical area regulations for the cities/town will be presented to the Citizen Advisory Committee in March 2013 and will be included in the April 2013 Jurisdiction-specific draft SMPs.]*

The following provisions apply to Growth Management Act-designated critical areas located within the jurisdictional limits of the Shoreline Management Act. Both WAC 173-26-221(2)(a) and RCW 36.70A.480(4) require that critical areas within shoreline jurisdiction are protected such that there is no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

#### **A. Policies**

1. The beneficial functions of critical areas, including critical freshwater habitats, within shoreline jurisdiction should be protected and potential dangers or public costs associated with the inappropriate use of such areas should be minimized by reasonable regulation of shoreline use and development within.
2. To implement the policy stated above, it is the intent of this section to accomplish the following:
  - a. Categorize and designate critical areas according to the Shoreline Management Act requirements in RCW 90.58 and regulate critical areas according to WAC 173-26.
  - b. Designate minimum buffer widths for all shorelines to protect shoreline resources and achieve the goal of having no net loss of shoreline ecological functions.

[Jurisdiction] Shoreline Master Program

- c. Preserve, protect, manage, or regulate critical areas that have a direct or indirect effect on conservation of fish, wildlife, other natural resources, and values.
  - d. Conserve and protect the environmental attributes of Kittitas County that contribute to the quality of life for residents of both Kittitas County and the State of Washington.
  - e. Protect critical areas, including critical freshwater habitats, and their functions by regulating use and development within these areas and on adjacent lands.
  - f. Guide development proposals to the most environmentally suitable and naturally stable portion of a development site.
  - g. Protect people and property from hazards associated with floods, landslides, erosion, migrating river channels, and other natural processes or events.
  - h. Minimize the costs that the public has to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.
  - i. Reduce cumulative adverse environmental impacts to water availability, water quality, wetlands, aquatic and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.
  - j. Maintain and protect both acreage and functions of regulated wetlands in Kittitas County through general protection standards, enhancement, restoration, and creation.
  - k. Protect water quality by controlling erosion, providing guidance in the siting of land uses and activities to prevent or reduce the release of chemical or bacterial pollutants into water of the State, and maintaining stream flows and habitat quality for fish.
  - l. Conserve drainage features that function together or independently to collect, store, purify, discharge, and/or convey waters of the State.
  - m. Maintain groundwater recharge and prevent the contamination of groundwater resources to ensure water quality and quantity for public and private uses and critical area functions.
  - n. Promote the restoration of degraded critical areas and their buffers in order to regain lost ecological functions and values and improve the economic health and stability of Kittitas County.
3. In protecting and restoring critical areas within shoreline jurisdiction, the full spectrum of planning and regulatory measures should be integrated, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs. [WAC 173-26-221(2)(b)]
  4. The planning objectives of this SMP for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded ecological functions and ecosystem-wide processes. The regulatory provisions for critical areas shall protect existing ecological functions and ecosystem-wide processes. [WAC 173-26-221(2)(b)]
  5. Promote human uses and values that are compatible with the other objectives of this section, such as public access and aesthetic values, provided that impacts to ecological functions are first avoided, and any unavoidable impacts are mitigated. [WAC 173-26-221(2)(b)]

## [Jurisdiction] Shoreline Master Program

### B. Regulations—General Regulations for all Critical Areas

1. This section applies to any development occurring in or adjacent to critical areas or their buffers in shoreline jurisdiction whether or not a permit or other authorization form is required from *[the jurisdiction]*. Critical areas outside of shoreline jurisdiction shall be regulated by *[jurisdiction's critical areas code]* and not this section of Program.
2. Any land, water, or vegetation within the shoreline jurisdiction that meets the critical areas designation criteria under this section shall be subject to the provisions of this Program and not *[jurisdiction's critical areas code]*. The location and extent of critical areas within shoreline jurisdiction shall be identified based upon best available information.
3. Inventory of available information: The *[jurisdiction's planning department]* shall maintain an inventory of available information concerning critical areas. This information shall be from credible sources including published reports from government agencies, including tribes, and/or from qualified professionals with experience identifying the specific critical area in question. These materials shall enable citizens to clearly understand the location of critical areas on and adjacent to their property, and what obligations, rights and opportunities they have regarding such lands.
4. Critical Area Maps: *[The jurisdiction]* shall make available to the public maps or other databases, as appropriate, which show the general location, extent, and classification of regulated critical areas. These maps are used as a general guide to the identification of critical areas. The maps are also intended to alert the development community, county residents, as well as current and prospective landowners of the possibility of site development constraints which may limit or alter development plans. Any presumption created by the maps may be rebutted by a preponderance of the evidence. The Administrator shall consider site-specific evidence provided by a qualified professional when determining the location and extent of critical areas on a parcel. This section does not apply if there is credible evidence that critical areas do not exist on a given parcel. Such evidence may include reports from the Department of Ecology, the Department of Fish and Wildlife, or other government agencies, or a report or analysis prepared by a qualified professional and submitted to the *[jurisdiction]* for review.
5. Applicants shall identify all known of potential critical areas and any required buffers in their application materials and provide any known evidence about those critical areas or buffers. The director may consult with other official sources, including the landowner, to determine the presence of critical areas and/or required buffers. Utilization of outside data and information by either the director or the applicant is permitted by the *[jurisdiction's]* critical areas policy document, and may be utilized to verify or dispute the designation or existence of critical areas and/or required buffers

## [Jurisdiction] Shoreline Master Program

on any property. After the application is complete, the director shall make a binding determination as to whether the parcel contains critical areas and/or required buffers.

6. Temporary or Permanent Field Identification: Prior to development on a proposed lot located within or adjacent to a critical area *[the jurisdiction]* shall require temporary or permanent field markers delineating the critical area boundary and associated buffer. The type of field markers to be used will be agreed to by the project proponent and the Administrator depending on site conditions and inspection requirements. Field markers shall be spaced at a minimum of every fifty (50) feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field markers shall remain in place until any required final inspections are completed and approved. Field markers may be waived by the Administrator if an alternative to field staking achieves the same objective, or if the development and construction activity(ies) is located at a sufficient distance so that impacts to the critical area are unlikely to occur.
7. Delineation Waiver: The requirement for delineating the location of possible critical areas may be waived if field investigation by county staff indicates the following:
  - a. Information in the form of drawings, binding site plans, etc. Indicate that all development and pre/post construction activities will occur at a minimum of 100 ft. from the most landward edge of the critical area and any required buffer.
8. Notice on Title: Any property on which a development proposal is submitted shall have filed with the Kittitas County Author:
  - a. A notice on title of the presence and location of the critical area and/or buffer;
  - b. A statement as to the applicability of this Program to the property; and
  - c. A statement described possible limitations on action in or affecting critical areas or buffer as approved by the Administrator. *[The jurisdiction]* shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or development, including but not limited to roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs, are exempt from this requirement.
9. Land Divisions: Land division in critical areas and/or buffers shall meet all of the following conditions and the conditions in Section 5.16 (Residential) of this Program:
  - a. All lots within the proposed land division shall contain at least one site, including access and utility locations, that is suitable for development and is not within a wetland, aquatic habitat conservation area, floodway, or erosion or landslide hazard area or their buffers. A new lot or parcel may be created in a seismic hazard area as long as there is a note on the face of the plat which indicates the presence of a potential hazard.

## [Jurisdiction] Shoreline Master Program

- b. Land subdivision is prohibited in areas where development would interfere with the process of channel migration that may cause significant adverse impacts to human health and safety; property or public improvements; and/or result in a net loss of shoreline ecological functions. The Administrator's approval of land subdivision within a designated channel migration zone shall be contingent upon the findings of an engineering geologist, a geotechnical engineer, or a civil engineer licensed in the State of Washington with experience in fluvial geomorphology and assessing channel response. The assessment shall include a review of historic and current aerial photos and maps and field analysis of specific channel and valley bottom characteristics.
- c. All lots meet lot minimum lot area requirements specified by this Program and [jurisdiction's zoning code] and other applicable provisions therein.
- d. The buildable area, critical areas, and buffers shall be shown on the face of the final plat and/or site plan.
- e. New land divisions shall be surveyed by a professional land surveyor.

### C. Regulations—General Mitigation Requirements for all Critical Areas

- 1. Proponents of new shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall employ all reasonable measures to mitigate adverse impacts to critical areas and their buffers.
- 2. Mitigation shall include the following actions in order of priority (referred to as the mitigation sequence):
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by adhering to the dimensional requirements, performance standards, and design criteria in this Program and using other technologies or steps, as needed, to avoid or reduce actions;
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
  - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- 3. The Administrator shall first determine whether identified impacts have been avoided and second minimized. Unless otherwise stated, development proposals that do not fully conform to the dimensional requirements, performance standards, and/or design criteria in this section and in the Program shall require compensatory mitigation to ensure no net loss at the project scale. The Administrator shall require compensatory mitigation for development proposals that result in measurable damage, loss and/or displacement of a wetland, aquatic habitat conservation area, wildlife habitat conservation area, or flood storage or conveyance area.

[Jurisdiction] Shoreline Master Program

4. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed that provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the Administrator shall consider limiting factors, critical habitat needs, or an approved watershed or comprehensive resource management plan. The Administrator may also approved use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the appropriate state, federal, and Tribal authorities.
5. When critical area compensatory mitigation plans are required pursuant to this Section, all of the following shall apply:
  - a. The quality and quantity of the replace, enhanced, or substituted critical area, and its buffer, shall be the same or better than the affected critical area and its buffer; and
  - b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities grow and mature over time; and
  - c. The mitigation shall replace the functions as quickly as possible following the impacts; and
  - d. Mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values; and
  - e. The Administrator shall require the applicant/proponent to post a bond or provide other financial surety equal to one hundred and fifty percent (150%) of the estimate cost of the mitigation to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.
6. Compensatory mitigation plans shall be prepared by qualified professionals with education, training and experience in the applicable field:
  - a. Wetland mitigation plans shall be prepared by a qualified professional who is educated/training in wetland biology or a closely related field, and has demonstrated experience in mitigation plan design, implementation, and monitoring. The overall goal of any such mitigation plan shall be no net loss of wetland functions, acreage, and values.
  - b. Mitigation plans for impacts to aquatic and wildlife habitat conservation areas shall be prepared by a qualified professional with education/training in wildlife biology or a closely related field, and professional experience in habitat mitigation design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991 or

## [Jurisdiction] Shoreline Master Program

- as thereafter amended, may serve as guidance for preparing mitigation plans to protect wildlife habitat conservation areas.
- c. Mitigation plans for geologically hazardous areas shall be prepared by a qualified professional who is either a geologist or a geotechnical engineer, or a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and erosion hazard evaluation, mitigation plan design, implementation, and monitoring.
  - d. Mitigation plans for development within frequently flooded areas shall be prepared by a civil engineer licensed in the State of Washington.
7. Request for technical assistance: *[the jurisdiction]* shall enlist, as much as practicable, technical assistance to help those wishing to develop land that contains, or potentially contains critical areas defined by this section. Such help shall be aimed at addressing mitigation of adverse effects that the county deems to be important in the context of this Program. A project proponent may be required to pay for or reimburse the County for the costs incurred in the preparation of a mitigation plan for the costs incurred by the County to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the proponent.
  8. When there is a conflict between the findings of a special report and the findings of the Administrator in review of the special report, the applicant or affected party may appeal such decision of the Administrator pursuant to the procedures in Section 6.8.
  9. Mitigation Banking and In-Lieu Fee (ILF) Mitigation: The county may approve mitigation banking and/or in-lieu fee mitigation as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and when the use of a bank/ILF Program will provide equivalent or greater replacement of critical area functions and values when compared to conventional permittee responsible mitigation; provided, that all of the following criteria are met:
    - a. Banks and ILF Programs shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the county comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.
    - b. The bank/ILF Program shall be established and certified in accordance with applicable federal and state mitigation rules.
    - c. Preference shall be given to mitigation banks/ILF Programs that implement restoration actions that have been identified formally by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the Salmon Recovery Board Habitat Project List or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

## [Jurisdiction] Shoreline Master Program

### 10. Cumulative Effects.

- a. In review of applications for shoreline permits and exemptions, the [jurisdiction] shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when determining whether a proposed use or development could cause a net loss of ecological functions. The geographic scope of the analysis shall include the shoreline waterbody potentially affected by the proposal within the bounds of the {local jurisdiction}'s geographic authority, unless the Shoreline Administrator determines that a larger or smaller area of analysis is appropriate.
- b. The [jurisdiction] shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
- c. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:
  - i. Current ecological functions and human factors influencing shoreline natural processes; and
  - ii. Reasonably foreseeable future use and development of the shoreline; and
  - iii. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
  - iv. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
- d. The County shall add conditions as needed based on the findings of 10.a-10.c above to address any adverse cumulative effects, and may prohibit any use or development that would result in unmitigated adverse cumulative impacts.

#### D. Regulations—General Mitigation Plan Contents for all Critical Areas

Compensatory wetland mitigation plans, when required by this Section, shall be consistent with Guidance on Wetland Mitigation in Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals or as revised (Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology publication number 04-06-013B - [http://www.ecy.wa.gov/programs/sea/bas\\_wetlands/volume2final.html](http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html)) and shall include the following information:

1. Baseline Information: Compensatory mitigation plans for all critical area types shall include a written assessment and accompanying maps, and include the following information:
  - a. Impacted critical areas and or their required buffers, including, at a minimum, existing wetland/stream acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions, and topographic elevations.

[Jurisdiction] Shoreline Master Program

- b. Mitigation site, if different from the impacted site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.
2. Environmental Goals and Objectives: The mitigation plan shall identify goals and objectives and include:
- a. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind, the type of critical area to be emulated.
  - b. A review of the available literature and/or experience to date in restoring or creating the type of critical area proposed. An analysis of the likelihood of success of the compensation project at duplicating the original resource shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored resources shall be provided based on such factors as surface and groundwater supply and flow patterns, dynamics of the ecosystem, sediment or pollutant influx and/or erosion, periodic flooding and drought, presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.
  - c. Performance Standards: Specific and measurable criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, in-stream habitat conditions, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.
  - d. Detailed Construction Plans: Written specifications and descriptions of compensation techniques shall be provided, including the proposed construction sequence; grading and excavation details; erosion and sediment control features needed for construction and long-term operation; a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s).

[Jurisdiction] Shoreline Master Program

- e. Monitoring Program: A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
  - i. Establishing vegetation plots to track plant establishment/survival, and changes in plant species composition and density over time;
  - ii. Using photo stations to evaluate vegetation community response;
  - iii. Measuring physical parameters such as wetland size, stream dimensions, channel characteristics, buffer width;
  - iv. Monitoring shallow groundwater levels to document hydrologic regimes/hydroperiods;
  - v. Sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
  - vi. Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;
  - vii. Measuring sedimentation rates, if applicable; and
  - viii. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
- f. Monitoring and Reporting: A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than three (3) years.
- g. Contingency Plan: Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
- h. Performance Bonds and Demonstration of Competence: A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in the amount of one hundred and fifty percent (150%) of the expected cost of compensation and shall be effective for a period of no less than three (3) years nor greater than ten (10) years after Administrator approval of successful completion of the mitigation plan. Administration costs incurred by [the jurisdiction] that are associated with bond administration and/or enforcement shall be paid for by the applicant.
- i. Additional information as specified elsewhere in the Section, as applicable.

## [Jurisdiction] Shoreline Master Program

### E. Regulations—Wetland Designation, Mapping, Delineation, and Categorization

1. Designation: Wetlands are those 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, but are not limited to, swamps, marshes, bogs, ponds, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, 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. [RCW 90.58.030(2)(h)]
2. Mapping: The approximate location and extent of wetlands are shown on maps maintained by [the jurisdiction]. These maps are useful as a guide for [the jurisdiction], project applicants, and/or property owners, and may be updated as wetlands are more accurately identified, located, and delineated. These maps are a reference and do not provide a conclusive or final critical area designation.
3. Delineation: Wetlands shall be identified in accordance with the requirements of RCW 90.58.380. The presence and exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional wetland scientist. This professional shall field stake, flag or mark the wetland boundary to aid the County in reviewing the development proposal. The County may require the wetland boundary to be surveyed by a professional land surveyor.
4. Categorization and Rating: Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with the procedure outlined in WAC 173-22-035, as determined using the appropriate rating forms contained in that publication. These categories are generally defined as follows:
  - a. Category I Wetlands: Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. The following types of wetlands are Category I:
    - i. Alkali wetlands;
    - ii. Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as high quality, relatively undisturbed wetlands, or wetlands that support state Threatened or Endangered plant species;
    - iii. Bogs;
    - iv. Mature and old-growth forested wetlands;

## [Jurisdiction] Shoreline Master Program

- v. Forest wetlands with stands of Aspen;
  - vi. Wetland scoring 70 points or more (out of 100) in the Eastern Washington Wetland Rating System.
- b. Category II Wetlands: Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:
- i. Forested wetlands in the floodplains of rivers;
  - ii. Mature and old-growth forested wetlands with native fast growing trees;
  - iii. Vernal pools;
  - iv. Wetlands scoring between 51-69 points (out of 100) in the Eastern Washington Wetland Rating System.
- c. Category III wetlands are often smaller, less diverse and/or more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands include:
- i. Vernal pools that are isolated; and
  - ii. Wetlands scoring between 30-50 points (out of 100) in the Eastern Washington Wetland Rating System.
- d. Category IV wetlands have the lowest levels of functions, scoring less than 30 points in the Eastern Washington Wetland Rating System, and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases improved. These wetlands may provide some important functions, and also need to be protected.

### F. Regulations—Wetland Buffers

1. Buffer Widths: Buffers shall be established and maintained to protect all regulated wetlands. Standard minimum buffer for wetlands, based on a review of the best available science, are listed in Table 4-1. The buffer shall not be altered except as authorized by this Program; provided that such alterations meet all other standards for the protection of regulated wetlands. Buffers are measured horizontally in all directions from the regulated wetland edge as marked in the field.

**Table 4-1. Wetland Buffers for Wetlands in Shoreline Jurisdiction**

<b>Wetland Type</b>	<b>Standard Buffer Width</b>
Category I	150 feet
Category II	100 feet
Category III	60 feet
Category IV	30 feet

2. **Wetland Buffer Condition:** Wetland buffer areas shall be retained in a natural condition or may be improved to enhance buffer functions and values. Where buffer disturbance has occurred during construction, revegetation with native vegetation shall be required. The [jurisdiction's] noxious weed ordinance shall be adhered to. Alterations of the buffer that are not associated with an allowed shoreline use or development shall be prohibited.
3. **Multiple Buffers:** In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.
4. **Interrupted Buffers:** When a buffer contains an existing legally established structure, road, parking lot or other substantial modification, the Administrator may allow development on the landward side of the modification provided that the development will not have a detrimental impact to the critical area. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, [the jurisdiction] shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.
5. **Buffers of Restored Wetlands:** The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
6. **Building Setback:** A building setback line equal to the side yard setback requirement of the applicable zoning district is required from the edge of any wetland buffer. Minor intrusions into the area of the building setback may be allowed if the Administrator determines that such intrusions will not negatively impact the wetland. The setbacks shall be shown on all site plans submitted with the application.

[Jurisdiction] Shoreline Master Program

7. Buffer Averaging: The Administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science when the proponent demonstrates that:
  - a. The averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
  - b. The wetland contains variations in sensitivity due to existing physical characteristics;
  - c. That the proposed use would be located adjacent to areas where buffer width is reduced, and that such land uses are low in impact;
  - d. That width averaging will not adversely impact wetland function and values.
  - e. No feasible site design could be accomplished without buffer averaging.
8. Proposal for buffer averaging shall include documentation that showing that the buffer width is reduced in one location it is increased in another location to maintain the same overall buffer area. Proposals for wetland buffer averaging shall not require a shoreline variance or compensatory mitigation if the following conditions are met:
  - a. The minimum width of the wetland buffer at any given point is at least seventy five percent (75%) of the standard width per Table 4-1, or thirty five (35) feet, whichever is greater; and
  - b. The net wetland buffer area (acreage) after averaging is the same as the standard buffer area without averaging; and
  - c. The area that is added to the wetland buffer to offset the reduction is well-vegetated.
9. Buffer Reduction: On sites that lack well-vegetated buffers, the Administrator may approve a proposal for wetland buffer reduction. Proposals for wetland buffer reduction on such sites shall not require a shoreline variance as long as the proponent shows that the following conditions are met:
  - a. The existing buffer is predominantly unvegetated, composed on nuisance species or in an otherwise highly disturbed condition.
  - b. The minimum width of the reduced wetland buffer is at least seventy five percent (75%) of the standard width per Table 4-1; and
  - c. The reduced portion of the buffer cannot exceed forty percent (40%) of the buffer length on the development property (in other words, in a one hundred [100] foot long segment of buffer, the reduced buffer could be up to forty [40] feet long); and
  - d. The reduced buffer area is planted and enhanced to with species native to central Washington.
10. Mitigation for Buffer Averaging or Reduction: Prior to approving a request for buffer averaging or reduction, the Administrator shall ensure the development is designed to separate and screen the wetland from impacts such as noise, glare, vegetation trampling, etc. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should

[Jurisdiction] Shoreline Master Program

take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas).

11. Increased Wetland Buffers: The Administrator shall increase wetland buffer zone widths, up to a maximum of two times the standard width in Table 4-1, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project-related conditions which include, but are not limited to the following circumstances:
  - a. Wetland sites with known locations of state priority or federally listed endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; or
  - b. Wetlands on sites where the proposed adjacent development is greater than 2 dwelling units per acre; or
  - c. The adjacent land is susceptible to severe erosion, and erosion control best management practices will not effectively prevent adverse wetland impacts.
  
12. Allowed Buffer Uses: The following uses may be permitted within a wetland buffer in accordance with the review procedures of this Section; provided they are not prohibited by any other applicable law, the provisions of this Program, and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland, including wetland functions and values:
  - a. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
  - b. Passive recreation facilities designed in accordance with an approved critical area report, including:
    - i. Walkways and trails; provided that those pathways which are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the buffer area, and constructed with a surface that does not impervious to water. Raised boardwalks utilizing nontreated pilings may be acceptable;
    - ii. Wildlife viewing structures; and
    - iii. Dish access area down to the water's edge that shall be no wider than six (6) feet.
  - c. Stormwater management facilities, limited to stormwater dispersion facilities, outfalls and bioswales, may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided that:
    - i. No other location is feasible; and
    - ii. The location of such facilities will not degrade the functions or values of the wetland.

## [Jurisdiction] Shoreline Master Program

### G. Regulations—Wetland Reporting

1. Reporting Requirement: If a proposed use or development is located within 200 feet of a known or suspected wetland, a wetland critical areas report is required, and shall include the following:
  - a. The category and precise location of the boundary of the wetland(s); and
  - b. All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. Best available information should include, but not be limited to, aerial photos, soils maps, and/or topographic maps; and
  - c. A critical areas report for wetland shall contain an analysis of the wetlands including the following site- and proposal-related information:
    - i. Documentation of any fieldwork performed on the site, including but not limited to field delineation data sheets for delineations, the wetland rating forms, and baseline hydrologic data.
    - ii. A description of the methodologies used to conduct the wetland delineations; and
    - iii. The vegetative, faunal, and hydrologic characteristics of the wetland.

### H. Regulations—Wetland Compensatory Mitigation

1. Compensatory Mitigation Requirement: Compensatory mitigation is required for all alterations to wetlands or their buffers, except for buffer averaging and buffer reduction when done in accordance with this Section.
2. Preference of Mitigation Actions: Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
  - a. Restoring, re-establishing and/or rehabilitating filled or altered wetlands to their original or near-original condition.
  - b. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
  - c. Enhancing significantly degraded wetlands in combination with restoration or creation.
3. Mitigation for Lost or Affected Functions: Compensatory mitigation actions shall replace functions affected by the alteration and shall provide equal or greater functions compared to the impacted wetland.
4. Mitigation Timing: Mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately

## [Jurisdiction] Shoreline Master Program

following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

5. **Delay in Mitigation:** The Administrator may authorize a one-time temporary delay, up to 120 days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints which preclude implementation of the mitigation plan. The justification must be verified and approved by the County and include a financial guarantee.
6. **Mitigation Ratios for Wetland Impacts—Creation and Restoration:** The following ratios shall apply to wetland creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a certified wetland mitigation bank or in-lieu fee program. When credits from a certified bank or in-lieu fee program are used, replacement ratios should be consistent with the requirements of the bank's/program's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered:
  - a. **Category I:** case by case. Ratios shall be based on the guidance provided in Wetlands in Washington State Volume 2: Guidance for protecting and managing wetlands (Washington State Department of Ecology, and Washington Department of Fish and Wildlife, publication number 05-06-008 Appendix 8D, Table 8D-11).
  - b. **Category II:** three to one;
  - c. **Category III:** two to one;
  - d. **Category IV:** one and one-half to one.
7. **Mitigation Ratios for Wetland Impacts—Enhancement:**
  - a. Impacts to Class III and Class IV wetlands may be mitigated by enhancement of existing significantly degraded wetlands at ratios of at least eight to one and six to one, respectively. The enhancement ratios may be reduced to two to one and four to one, respectively, if the mitigation also includes at least one to one replacement of wetland area through restoration or creation.
  - b. Impacts to Class II wetlands may be mitigated by a combination of enhancement and creation or restoration, but not enhancement alone. The ratios for such mitigation shall be at least four to one for enhancement plus at least one to one for restoration or creation and restoration or creation.
  - c. Applicants proposing to enhance wetlands must produce a mitigation plan that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and

## [Jurisdiction] Shoreline Master Program

function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

8. Increased Replacement Ratios: The Administrator shall increase the wetland mitigation ratios under the following circumstances:
  - a. Uncertainty exists as to the probably success of the proposed restoration or creation;
  - b. A significant period of time will elapse between impact and replication of wetland functions;
  - c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacts; or
  - d. The impact was an unauthorized impact.

9. Mitigation Ratios for Wetland Buffer Impacts:

- a. To mitigate impacts to functions and values of buffers, a minimum buffer a ratio of 1:1 (alteration: mitigation) is required. This ratio assumes that creation/ restoration of wetland buffer with appropriate native vegetation is sufficient to compensate for the wetland buffer functions and values affected by alteration of existing wetland buffer. If enhancement of an existing wetland buffer is proposed as mitigation, a higher mitigation ratio may be required. For any proposed wetland buffer activities, the applicant must show that the functions and values of the altered wetland buffer will be fully replaced by the proposed mitigation. The Administrator may increase the buffer mitigation ratios under the following circumstances:
  - i. The replacement ratio needed to recover the lost functions and values of buffer area is greater than 1:1 based upon the existing type of vegetative cover of either the impact site or the proposed mitigation site.
  - ii. Uncertainty exists as to the probable success of the proposed restoration or creation;
  - iii. A significant period of time will elapse between impact and replication of wetland functions;
  - iv. The impact was an unauthorized impact.

- I. Regulations—Aquatic Habitat Conservation Area Designation and Mapping

1. Designation and Classification: Aquatic Habitat Conservation Areas include:

- a. Those streams and lakes which meet the criteria for Type S, F, Np, and Ns waters, as defined in the water type classifications in the forest practices rules in WAC 222-16. Type S waters are synonymous with shorelines of the state.
- b. Areas with which federally and/or state-listed aquatic species have a primary association;
- c. State priority aquatics habitats and areas associated with state priority aquatic species;
- d. Naturally occurring ponds under 20 acres in size; and

[Jurisdiction] Shoreline Master Program

- e. Naturally occurring ponds under 20 acres in size; and
  - f. Naturally occurring lakes over 20 acres and other waters of the state, including marine waters, and waters planted with game fish by a government or tribal entity.
2. Mapping: The approximate location and extent of aquatic habitat conservation areas are shown on the County’s critical area maps. These maps are to be used as a guide and do not provide definitive information about aquatic habitat conservation areas size or presence. The County shall update the maps as new aquatic habitat conservation areas are identified and as new information becomes available.

J. Regulations—Aquatic Habitat Conservation Area Buffers

1. Standard Shoreline Buffer Widths: Shoreline buffers, as shown in Table 4-2, shall be established and maintained to protect all Type S Aquatic Habitat Conservation Areas (shorelines) in accordance with the shoreline environment designation. These standard shoreline buffers shall be measured in all directions from the ordinary high watermark as identified in the field. New uses and development shall be located landward of the shoreline buffer unless otherwise stated in this Program and the buffer shall not be altered except as authorized by this Program. If there are additional critical areas present, the landward-most edge of all such buffers shall apply.

**Table 4-2. Standard Shoreline Buffers (Type S Waters)**

<b>Shoreline Environment Designation</b>	<b>Type S Standard Shoreline Buffer Width (feet)</b>
High Intensity	75
Urban Conservancy	100
Shoreline Residential	100
Rural Conservancy	100
Natural	150

2. The shoreline buffers in Table 4-2 do not apply to commercial forest practices when such activities are conducted according to the Washington State Forest Practices Act (RCW 76.09). When forest practices are associated with a conversion of forest lands to non-forestry uses, the buffer requirements shall apply.
3. The shoreline buffers in Table 4-2 do not apply to existing and ongoing agricultural activities occurring on agricultural lands. New agricultural activities proposed on land not currently in agricultural use must comply with the buffer regulations.

[Jurisdiction] Shoreline Master Program

4. Buffers for non-Shoreline Streams: Buffers shall be established and maintained along all Type F, Np, and Ns waters within shoreline jurisdiction to protect regulated Aquatic Habitat Conservation Areas as shown in Table 4-3 below. These stream buffers shall be measured in all directions from the ordinary high watermark as identified in the field. New uses and development shall be located landward of the shoreline buffer unless otherwise stated in this Program and the buffer shall not be altered except as authorized by this Program.

**Table 4-3. Aquatic Habitat Conservation Area Buffers for Type F, Np, and Ns Waters**

<b>Aquatic Habitat Conservation Area</b>	<b>Standard Buffer Width</b>
Type F Waters	100 feet
Type Np Waters	50 feet
Type Ns Waters	30 feet

5. Buffer Condition: Aquatic habitat conservation area buffers shall be maintained in a predominantly well-vegetated and undisturbed condition. Alterations that are not associated with an allowed use or development shall be prohibited.
6. Multiple Buffers: In the event that buffers for any Aquatic Habitat Conservation Areas or other critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.
7. Interrupted Buffers: When a buffer contains an existing legally established structure, road, parking lot or other substantial modification, the Administrator may allow development on the landward side of the modification provided that the development will not have a detrimental impact to the critical area. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, [the jurisdiction] shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.
8. Increased Buffers: The Administrator shall increase the Aquatic Habitat Conservation Area buffer shown in Tables 4-2 and 4-3 width up to a maximum of two hundred feet in those rare and atypical situations where the standard buffer is inadequate to prevent significant adverse environmental impacts or address hazards associated

## *[Jurisdiction]* Shoreline Master Program

with the site or the proposed development activity. The Administrator shall have evidence that there are atypical conditions associated with one or more of the following before requiring increased buffer widths:

- a. The shoreline's historical and current susceptibility to severe erosion, channel instability, or aggrading;
  - b. The presence of multiple channels or islands;
  - c. The land adjacent to the ordinary high water mark and extending throughout the standard habitat buffer is steeply sloped (greater than forty percent [40%] slope) and there are no designated landslide hazards within the area of shoreline jurisdiction, such that an increased buffer may be required to protect ecological functions.
9. Allowed Shoreline Buffer Modifications: The Administrator may allow limited clearing, thinning, and/or pruning within the standard shoreline buffer (Table 4-2) to accommodate specific water dependent and water related uses as identified in this Program. Such allowances shall not require compensatory mitigation provided that the amount and extent of the clearing, limbing, and/or pruning are the minimum necessary to accommodate the allowed use and all other requirements of the Program are met:
- a. Shoreline View Corridors: The Administrator may allow limited and selective tree removal, pruning, and/or limbing within the standard shoreline buffer (Table 4-2) buffer to create a view of the shoreline when otherwise consistent with this Program. The development or maintenance of view corridors can provide opportunities for visual access to water bodies associated with waterfront lots. One view corridor, limited to 25 percent of the width of the lot frontage, or 25 feet, whichever distance is less, maybe be permitted per lot, when consistent with the provisions of this Section. A mitigation plan is required and must be submitted for review and approval. Applicants shall provide a photo documentation that a view corridor does not already exist by submitting photographs of the top floor of the development 180 degrees toward the shoreline. The removal, pruning, and/or limbing shall not require any ground-disturbing equipment and shall not materially alter soils or topography. The Administrator may require a view clearance plan prepared by a qualified ecologist, forester, arborist, or landscape architect prior to approving the view corridor. The view clearance plan shall identify and describe the location and extent of the proposed tree removal, pruning, and limbing and shall demonstrate compliance with American National Standards Institute (ANSI) A300 Standards for Tree Care Operations (Tree, Shrub, and Other Woody Plant Management – Standard Practices). For properties within designated landslide or erosion hazard areas, the Administrator may require review of the view clearance plan by an engineering geologist or geotechnical engineer to ensure that the proposed removal, pruning, and/or limbing will not cause or exacerbate hazards associated with soil or slope instability. The location and size of the view corridor shall be clearly defined on the site plan.
  - b. Private Pathways: Private pathways which provide pedestrian access to the shoreline may be allowed within a shoreline buffer provided they are constructed

## *[Jurisdiction]* Shoreline Master Program

of pervious material, are less than or equal to six (6) feet wide, and follow a route that minimizes erosion and gulying (e.g., a winding but direct path). Pathways shall be located within view corridors and/or the active use zone to the maximum extent practicable in order to minimize buffer disturbance.

- c. Hazard Tree Removal: Removal of a hazard tree may be allowed in the shoreline buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester.
  - d. Invasive Species Management: Removing invasive, non-native shoreline vegetation listed on the Kittitas County Noxious Weed List may be allowed in the shoreline buffer when otherwise consistent with this Program. The disturbed areas must be promptly revegetated using species native to western Washington. The Administrator shall require a vegetation management plan prepared by a qualified ecologist, forester, arborist, or landscape architect prior to approving the invasive species removal. The vegetation management plan shall identify and describe the location and extent of vegetation management. For properties within designated landslide or erosion hazard areas, the Administrator may require review of the vegetation management plan by an engineering geologist or geotechnical engineer to ensure that the vegetation management will not cause or exacerbate hazards associated with soil or slope instability. The location and size of the invasive species management area shall be clearly defined on the site plan.
  - e. Public Trails and Other Public Access Improvements: Public trails and public access improvements may be allowed in the shoreline when they are consistent with the policies and regulations in Section 4.4 of this Program.
  - f. Utilities and Essential Public Facilities: Certain utilities and essential public facilities that meet the definition of water-dependent or water-related may be allowed in the shoreline buffer when they are consistent with the policies and regulations specified in Section 5.21 of this Program.
10. Buffer for Aquatic Habitat Conservation Area Mitigation Sites: Any Aquatic Habitat Conservation Area that is created, restored, or enhanced as compensation for approved alterations shall be the same as the buffer required for the category of the created, restored, or enhanced Aquatic Habitat Conservation Area.
11. Buffer Averaging: The Administrator may allow modification of the standard buffer widths in Table 4-2 and 4-3 in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. With buffer averaging, the buffer width is reduced in one location and increased in another location to maintain the same overall buffer area. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if the following condition are met:
- a. The minimum width of the buffer at any given point is at least seventy five (75%) of the standard width per Table 4-2 or 4-3, or twenty five (25) feet, whichever is greater; and

[Jurisdiction] Shoreline Master Program

- b. The net buffer area (acreage) after averaging is the same as the standard buffer area without averaging; and
  - c. The area that is added to the buffer to offset the reduction is well-vegetated.
12. Buffer Reduction: On sites that lack well-vegetated buffers, the Administrator may approve a proposal for buffer reduction. Proposals for buffer reduction on such sites shall not require a shoreline variance as long as the following conditions are met:
- a. The existing buffer is predominantly unvegetated, composed on nuisance species or in an otherwise highly disturbed condition;
  - b. The minimum width of the reduced buffer is at least seventy five percent (75%) of the standard width per Table 4-2 and 4-3; and
  - c. The reduced portion of the buffer cannot exceed forty percent (40%) of the buffer length on the development property (in other words, in a one hundred [100] foot long segment of buffer, the reduced buffer could be up to forty [40] feet long); and
  - d. The reduced buffer area is planted and enhanced to with species native to central Washington.
13. Prior to approving a request for buffer averaging or reduction, the Administrator shall ensure the development is designed to separate and screen the stream from impacts such as noise, glare, and vegetation trampling. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas). Landscaping shall be consistent with [the jurisdiction's development code].

K. Regulations—Wildlife Habitat Conservation Areas Designation and Mapping

1. Designation: Wildlife Habitat Conservation Areas shall include the following:
- a. Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species. This includes known locations of nests, rookeries, or other breeding areas for species of concern recognized by local, state, and federal public agencies having jurisdiction over such species.
  - b. Areas with which federally and/or state-listed species have a primary association.
  - c. State priority habitats and areas associated with state priority species.
  - d. Natural area preserves and natural resource conservation areas.
  - e. Other habitats including big game habitat, ravines, caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, urban natural open space.
  - f. Habitats targeted for preservation by federal, state, and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service.

[Jurisdiction] Shoreline Master Program

2. Mapping: The approximate location and extent of wildlife habitat conservation areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive or conclusive critical area designation. The County shall update the maps as new wildlife habitat conservation areas are identified and as new information becomes available.

L. Regulations—Habitat Conservation Area Reporting and Mitigation Requirements

1. If a proposed use or development is located within 200 feet of a known or suspected aquatic or wildlife habitat conservation area, the Administrator shall require the applicant to submit a habitat management plan report.
2. A habitat management plan will be required when there are potential direct and/or indirect impacts on fish and wildlife species or habitat from the proposed use or activity. The habitat management plan will include a discussion of the potential direct and indirect impacts, as well as a discussion of the ongoing management practices that will protect habitat after the project site has been developed. The habitat management plan will include any relevant information and recommendations from the Washington Department of Fish and Wildlife habitat guidelines for the affected species and/or habitat. Based on the characteristics of the site, the Administrator may require that all or a portion of the following be included in a habitat management plan:
  - a. A map drawn to scale or survey showing the location of the fish and wildlife habitat conservation area on the subject property, as well as the approximate location of any potential fish and wildlife habitat conservation area within 200 feet of the subject property; and
  - b. Detailed description of vegetation and habitat characteristics within and adjacent to the site.
  - c. Identification of any endangered, threatened, or candidate species that have a primary association with habitat on the project area, and assessment of potential project impacts to use of the buffer and critical area on the site by the species.
  - d. Methods and measures to avoid, minimize and/or compensate for adverse impacts associated with the proposed development, including but not limited to:
    - i. Prohibition or limitation of development activities within the fish and wildlife habitat conservation area;
    - ii. Establishment of a buffer around the fish and wildlife habitat conservation area;
    - iii. Retention of vegetation and/or revegetation of areas / habitats critically important to species;
    - iv. Special construction techniques;
    - v. Implementation of erosion and sediment control measures;
    - vi. Habitat enhancement (i.e., fish passage barrier removal);
    - vii. Seasonal restrictions on construction activities on the subject property;
    - viii. Clustering of development on the subject property; and
    - ix. Any other requirements and/or recommendations from WDFW's habitat management guidelines.

## [Jurisdiction] Shoreline Master Program

### 3. Classification

- a. All wildlife habitat conservation areas shall be classified by the [local jurisdiction] to reflect the relative function, value and uniqueness of the habitat area as established through an approved habitat ranking evaluation submitted by the applicant for any development permit. The [jurisdiction] may use the following information sources as guidance in identifying the presence of potential wildlife habitat conservation areas and the subsequent need for a habitat boundary survey:
  - i. The [jurisdiction] shoreline master program;
  - ii. Washington Department of Fish and Wildlife priority habitat and species maps;
  - iii. Previous habitat boundary surveys; and
  - iv. On-site inspection.
- b. Wildlife habitat conservation areas shall be classified according to the following system:
  - i. Level 1 Critical. These are habitat areas which may be significantly disrupted by development in the immediate vicinity. Critical habitat may include winter ranges, migration routes, nesting sites, perches and wetlands, riparian, aquatic and upland habitat areas. These habitats are designated as critical habitat on the [jurisdiction] Critical Areas Maps. Only non-shoreline aquatic habitats are regulated under this chapter.
  - ii. Level 2 Awareness. These habitat areas are those surrounding or adjacent to designated Level 1 Critical areas that, if disturbed, could impact the Level 1 area. These habitats are designated as awareness habitat on the [jurisdiction] Critical Areas Maps.

### 4. Habitat boundary survey and ranking evaluation.

- a. A wildlife habitat boundary survey and ranking evaluation shall be conducted by a wildlife biologist who is knowledgeable of wildlife habitat within Kittitas County and who derives his/her livelihood from employment in this occupation. The wildlife habitat boundary shall be field staked by the biologist and surveyed by a land surveyor for disclosure on all final plats, maps, etc.
- b. The Management Recommendations for Washington's Priority Habitats and Species may be used as a tool for identifying and delineating the habitat boundary.
- c. The [jurisdiction] may waive the requirement for the survey for low intensity development as defined in this chapter, if:
  - i. The proposed development is not within the extended proximity of the associated habitat;

[Jurisdiction] Shoreline Master Program

- ii. There is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures; and
  - iii. The applicant provides voluntary deed restrictions that are approved by the [jurisdiction].
- d. An evaluation of any unranked wildlife habitat is necessary when there is a proposed development or activity to be located adjacent to or within an area containing a wetland within the shoreline management zone.
- e. The evaluation shall be used to determine if the wildlife habitat is a Level 1 Critical or a Level 2 Awareness wildlife habitat conservation area. It shall evaluate those factors identified in Chapter 3 that are used to distinguish between these categories, and it shall take into consideration historical information on the area in question, the dynamic nature of habitat conservation areas and an evaluation of the entire habitat conservation area, as opposed to isolated indicators on individual parcels.
- f. The wildlife habitat boundary and associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.
5. Wildlife habitat management and mitigation plan.
- a. A wildlife habitat management and mitigation plan shall be prepared by a wildlife biologist who is knowledgeable of wildlife habitat within Kittitas County and who derives his/her livelihood from employment in this field.
  - b. The wildlife habitat management and mitigation plan shall demonstrate, when implemented, that there shall be no net loss of ecological function of habitat.
  - c. The wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the classified habitat conservation area and its associated buffer.
  - d. The wildlife habitat management and mitigation plan shall contain a report containing, but not limited to, the following information:
    - i. Vicinity maps, regional 1:24,000 and local 1:4,800;
    - ii. Location maps at a scale consistent with the [jurisdiction] design guidelines;
    - iii. A map or maps indicating the boundary of the habitat conservation areas; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and stormwater facilities; adjacent land uses, zoning districts and comprehensive plan designations;
    - iv. A description of the proposed project including the nature, density and intensity of the proposed development and the associated grading, structures, roads, easements, wastewater facilities, stormwater facilities, utilities, etc., in sufficient detail to allow analysis of such land use change upon the habitat conservation area;
    - v. A detailed discussion of surface and subsurface hydrologic features both on and adjacent to the site where the [jurisdiction] determines appropriate;

[Jurisdiction] Shoreline Master Program

- vi. A description of the vegetation in the habitat conservation area, on the overall project site and adjacent to the site;
  - vii. A detailed description of the proposed project's effect on the habitat conservation area, and a discussion of any federal, state or local management recommendations which have been developed for the species or habitats in the area;
6. A discussion of the following mitigation alternatives as they relate to the proposal:
- a. Avoiding the impact altogether by not taking a certain action or parts of an action,
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts,
  - c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment,
  - d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
7. A plan by the applicant that explains how any adverse impacts created by the proposed development will be mitigated, including without limitation the following techniques:
- a. Establishment of buffer zones,
  - b. Preservation of critically important plants and trees,
  - c. Limitation of access to the habitat conservation area,
  - d. Seasonal restriction of construction activities,
  - e. Establishment of a timetable for periodic review of the plan;
8. A detailed discussion of ongoing management practices which will protect the habitat conservation area after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs.
- M. Regulations—Geologically Hazardous Areas Designation, Classification, and Mapping
- 1. Designation: Lands classified as landslide, erosion, mine, volcanic and seismic hazard areas are hereby designated as geologically hazardous areas and are subject to the standards of this Section.
  - 2. Classification - Landslide Hazard Areas: Lands potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. The following shall be designated as landslide hazards and are subject to the requirements of this section:
    - a. Areas of historic failures, such as:

[Jurisdiction] Shoreline Master Program

- i. Those areas delineated by the Natural Resource Conservation Service (NRCS) as having a “severe” limitation for building site development; or
    - ii. Those areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Coastal Zone Atlas; or
    - iii. Areas designated as quaternary slumps, earth-flows, mudflows, lahars, or landslides on maps published as the U.S. Geological Survey or Washington Department of Natural Resources (DNR) Division of Geology and Earth Resources.
  - b. Areas with all three of the following characteristics:
    - i. Slopes steeper than 15 percent;
    - ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
    - iii. Springs or groundwater seepage.
  - c. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;
  - d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
  - e. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;
  - f. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;
  - g. Areas that show evidence of, or are at risk from snow avalanches;
  - h. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
  - i. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.
3. Classification - Erosion Hazard Areas: Areas containing soils that may experience significant erosion, including:
  - a. Slopes forty percent (40%) or steeper with a vertical relief of ten (10) or more feet, except areas composed of consolidated rock.
  - b. Concave slope forms equal to or greater than fifteen percent (15%) with a vertical relief of ten (10) or more feet, except areas composed of consolidated rock.
  - c. Channel migration zones: Areas within which the stream channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition.

## [Jurisdiction] Shoreline Master Program

4. Classification - Seismic Hazard Areas: Lands subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting the following classifications shall be designated as seismic hazard and are subject to the requirements of this section:
5. Classification - Volcanic hazard areas: Areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding resulting from volcanic activity. There are no active or dormant volcanoes located within Kittitas County; however Mount Rainer and Mount St. Helens are relatively near. Hazards to Kittitas County residents from these volcanoes are limited to ash deposition.
6. Classification - Mine Hazards Areas are areas are underlain by abandoned mine shafts, secondary passages between shafts tunnels, or air vents. Mine hazards include subsidence, which is the uneven downward movement of the ground surface caused by underground workings caving in; contamination to ground and surface water from tailings and underground workings; concentrations of lethal or noxious gases; and underground fires. The location or extent of mine hazard areas in Kittitas County is unknown; however, historic coal and gold mining occurred historically in the Roslyn and Swauk Creek area, so there is a potential for mine hazards.
7. Mapping: Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards to a property. These maps shall be updated periodically as new information becomes available.

### N. Regulations—Geologically Hazardous Areas

1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts to geologically hazardous areas. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; implementing special drainage or runoff management practices; foregoing construction of accessory structures; preserving native vegetation; and other reasonable measures.
2. New uses and developments may be allowed in geologically hazardous areas and/or their buffers only when specifically allowed by this Program and when all reasonable measures have been taken to avoid adverse effects on slope stability and protect human health and safety.
3. Critical facilities shall be prohibited in geologically hazardous areas and/or their buffers.
4. The Administrator shall review each development proposal to determine if there is any possible geologically hazardous area on-site. In making the determination, the

## *[Jurisdiction]* Shoreline Master Program

Administrator shall use the best available information including any previously completed special reports conducted in the vicinity of the subject proposal. If no hazard area is determined to be present, this section shall not apply to the review of the proposed development.

5. Hazard Present (Non Channel Migration Zone): If it is determined that a severe erosion hazard, mine hazard, or landslide hazard other than a channel migration zone hazard, may be present on or adjacent to a proposed development site, the applicant shall submit a geologic hazard area risk assessment prepared by a qualified engineer or a geologist. The geologic hazard area risk assessment shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby. If the professional preparing the geologic hazard area risk assessment concludes that further analysis is necessary, the applicant shall submit a geotechnical report consistent with the provisions of this section.
6. Geotechnical Report (Non Channel Migration Zone) - The geotechnical report shall include a certification from the engineering geologist or geotechnical engineer preparing the report, including the professionals stamp and signature. The geotechnical report shall include the following:
  - a. A detailed description of the geology and soil conditions of the site;
  - b. Evaluation of the geologic conditions giving rise to the geologic hazard;
  - c. An evaluation of the safety of the proposed project;
  - d. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;
  - e. Conclusions and recommendations on the suitability of the site to be developed;
  - f. A statement regarding the risk of damage from the project, both on- and off-site; and whether or not the project will materially increase the risk of occurrence of the hazard;
  - g. Recommendations concerning drainage practices, vegetation retention and other mitigation and monitoring measures which may be needed to ensure slope stability;
  - h. Recommended erosion and sediment control measures;
  - i. A bibliography of scientific citations; and
  - j. Any other specific measures which must be incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard. This shall include a recommendation on the required buffer or setback distance that must be maintained between the proposed development and the hazard to ensure the safety of the development.

[Jurisdiction] Shoreline Master Program

7. Hazard Present (Channel Migration Zone): If County maps indicate that a potential channel migration zone hazard exists on or adjacent to a proposed development site, the applicant shall either:
  - a. Locate the proposed development landward of the channel migration hazard area as indicated on the map; or
  - b. Submit documentation, prepared by an experienced geologist, hydrologist or licensed civil engineer with at least five (5) years of experience with fluvial systems of the Pacific Northwest, that demonstrates the following:
    - i. The parcel on which the development is proposed is effectively protected (disconnected) from channel movement due to the existence of permanent levees or infrastructure such as roads and bridges constructed and maintained by public agencies (not all roads and levees will be considered disconnection points); or
    - ii. The proposed development site has minimal risk of channel migration during the next 100 years as indicated by the existing channel type, intact land cover (and low likelihood of future alterations in land cover); stable surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies). The assessment shall include a review of all available data regarding historical channel locations at the site; identification of the site within a broader reach of the river system, and the general characteristics of that reach; description of existing channel type, extent of alterations and likelihood of future alterations with changes in land cover; surficial geology, soils and erosion potential; and geotechnical setbacks relating to erosion at the toe of an adjacent slope.
8. Based upon the results of the channel migration zone assessment, the Administrator may prohibit or limit development within a channel migration zone and/or require a buffer of undisturbed natural vegetation from the edge of the channel migration zone.
9. The Administrator may impose conditions on any new shoreline use and developments in a geologically hazardous area as needed to:
  - a. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;
  - b. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater ecosystems;
  - c. Minimize the potential for property damage related to seismic events, erosion and/or landslides;
  - d. Protect human health and safety; and
  - e. Reduce public liabilities for damages associated with seismic events, erosion and/or landslides.

## *[Jurisdiction]* Shoreline Master Program

### O. Regulations—Frequently Flooded Area Designation and Mapping

1. Designation and Mapping: All lands classified as floodway or special flood hazard areas in the Federal Emergency Management Agency report titled “The Flood Insurance Study for the County of Kittitas County” dated November 5, 1980, as now or hereafter amended, with accompanying Flood Insurance Rate and Boundary Maps, are designated as frequently flooded areas. The study and maps are on file at Kittitas County. When base flood elevation data has not been provided in the Flood Insurance Study, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from the Federal Emergency Management Agency, Washington State Department of Ecology, or other qualified source. Where base flood elevation data and floodway delineation are not available either through the Flood Insurance Study or from a qualified source, historical data, high water marks, and photographs of past flooding, shall be used to determine base flood elevations. Frequently flood areas shall not include those lands where a qualified professional determines that Flood Insurance Study maps are in error.

### P. Regulations— Frequently Flooded Area Protection Standards

1. The standards of this section and other applicable provisions of this Program shall apply to all new uses and developments occurring within the floodplain, including flood control structures regulated in Section 4.3 of this Program.
2. Critical facilities shall be prohibited within areas designated as frequently flooded. Critical facilities include all facilities for which even a slight chance of flooding would be too great. Critical facilities include, but are not limited to: schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads and major highways. Where linear critical facilities must cross frequently flooded areas, reasonable and practicable alternative alignments which minimize flood hazard shall be considered and preferred; any necessary crossing for linear critical facilities shall be elevated and/or flood-proofed, sited to minimize hazard and ecological impacts, and otherwise designed and maintained to minimize flood hazards.
3. Land Divisions: New land divisions containing frequently flooded areas shall be consistent with the requirement to minimize flood damage; shall have utilities and common facilities located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage; and where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for development proposals which contain at least fifty (50) lots or five (5) acres (whichever is less).
4. Floodplain Storage: New uses or development shall not reduce the effective flood storage volume within a frequently flooded area. If proposed grading, fill, or other activity would reduce effective flood storage volume, then mitigation is required.

[Jurisdiction] Shoreline Master Program

5. Land Disturbing Activities within Floodways: Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in more than a one-foot increase in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.
6. Recreational Vehicles – Recreational vehicles placed within the special flood hazard area shall comply with all of the following conditions:
  - a. The recreational vehicle shall be located on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, be on its wheels or jacking system, be not obstructed (i.e., no blocking or skirting), be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.
  - b. Any structures temporarily attached to recreational vehicles must comply with applicable provisions of this section.
  - c. Recreational vehicles shall not be located within critical area buffers required pursuant to this section.
7. Protection Standards for Structures in Frequently Flooded Areas – In addition to the critical area buffer requirements and other applicable protection standards of this Program and the standards set forth in *[building code of jurisdiction, (date adopted)]*, the following conditions shall apply to structures constructed within designated frequently flooded areas.
  - a. Floodways – Consistent with RCW 86.16.061(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent.
  - b. Residential, commercial and/or industrial buildings. Buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to *[INSERT DATE]*. If a portion of the pre-existing lot lies outside the flood hazard area, building shall be directed to the nonhazard portion to the maximum extent feasible.

[Jurisdiction] Shoreline Master Program

Q. Regulations—Frequently Flooded Area Reporting

1. The Administrator's approval of a new use or development within a frequently flooded area shall be contingent upon the findings of a floodplain report, prepared by a civil engineer licensed in the State of Washington who has professional experience in flood hazard evaluation. Such report shall include the following:
  - a. A site plan, drawn to scale, showing the following:
    - i. The nature, location, dimensions, and elevations of the project property;
    - ii. Names and locations of all lakes, water bodies, and water-ways within 300 feet of the site
    - iii. The elevations of the 10-, 50-, 100-, and 500-year floods, where the data are available;
    - iv. The proposed drainage system including, but not limited to, storm sewers, overland flow paths, detention facilities, and roads;
    - v. Existing and proposed structures, fill, pavement, and other impervious surfaces, and sites for storage of materials;
    - vi. All wetlands and designated fish and wildlife habitat conservation areas; and
    - vii. Existing native vegetation and proposed revegetation.
  - b. If the proposed project involves grading, excavation, or filling, the site plan shall include proposed post-development terrain at one foot contour intervals.
  - c. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged structure that will be elevated, the floodplain report shall include a completed Elevation Certificate, FEMA Form 81-31, for the building site and proposed structure.
  - d. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure that will be dry floodproofed, the floodplain report shall include the Elevation Certificate for the building site and the elevation in the relation to the datum of the effective FIRM to which the structure will be dry floodproofed and certification by a registered professional engineer or licensed architect that the dry floodproofing criteria in *[jurisdiction's flood hazard prevention code]*.
  - e. The floodplain report shall include a description of the extent to which a stream, lake, or other water body, including its shoreline, will be altered or relocated as a result of the proposed development.
  - f. The floodplain report shall include documentation that the applicant will apply for all necessary permits required by Federal, State, or local law. The application shall include written acknowledgement that the applicant understand that the final certification of use or certificate or occupancy will be issued only if the applicant provides copies of the required Federal, State, and local permits or letters stating that a permit is not required. The floodplain permit is not valid if those other permits and approvals are not obtained prior to any ground disturbing work or structural improvements.

[Jurisdiction] Shoreline Master Program

R. Regulations—Frequently Flooded Area Compensatory Mitigation

1. Development proposals shall provide compensatory storage if grading, fill, or other activity will occur within a frequently flooded area. Compensatory storage shall:
  - a. Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, “equivalent elevation” means having similar relationship to ordinary high water and to the best available 10-year, 50-year, and 100-year water surface profiles;
  - b. Be hydrologically connected to the source of flooding;
  - c. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins;
  - d. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites; and
  - e. Occur on site. The Administrator may approve equivalent compensatory storage off the site if legal arrangements, acceptable to the department, are made to assure that the effective compensatory storage volume will be preserved over time. The Administrator may approved off-site compensatory storage through an approved compensatory storage bank.
  
2. Mitigation plans for development within frequently flooded areas shall include the following information in addition to the information listed above in this section:
  - a. Potential that materials may be swept during flooding onto other lands to the detriment of others;
  - b. Actual danger to life and property if flooding or erosion occurs;
  - c. Susceptibility of the proposed development and its contents to flood damage;
  - d. Availability of alternative locations for the proposed use which are not subject to flood or erosion damage;
  - e. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - f. Safety of access to the property in times of flood for ordinary and emergency vehicles;
  - g. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action at the site;
  - h. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities;
  - i. Location and extent of storage area for floodwater which will be displaced by the proposed development; and
  - j. The risk to public and private property and public health, safety and welfare due to rising of water levels, shifting of stream channels (including related erosion) as well as costs to individuals and the general public for items which are not insured such as loss of productivity due to closed roads, risk to emergency response workers, loss of uninsured property (cars, landscaping, etc.) and habitat damage as a result of loss of riparian zones and floodplain function.

## [Jurisdiction] Shoreline Master Program

### S. Regulations— Critical Aquifer Recharge Areas Designation, Mapping, and Classification

1. Designation: Critical aquifer recharge areas are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water. These recharge areas have geologic conditions that allow high infiltration rates, which contribute significantly to the replenishment of ground water. These conditions also create a high potential for ground water contamination. All lands and shorelands classified as having high aquifer recharge potential and aquifer susceptibility are hereby designated as critical aquifer recharge areas. Critical aquifer recharge areas also include known wellhead protection areas for Class A water systems. A wellhead protection area is the surface and subsurface area surrounding a well or wellfield that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Safe Drinking Water Act.
2. Mapping: The general location and extent of critical aquifer recharge are shown on maps maintained by [the jurisdiction]. These maps are useful as a guide for Kittitas County, project applicants, and/or property owners, and may be updated as more information on aquifer recharge and susceptibility becomes available. These maps are a reference and do not provide a conclusive or final critical area designation.
3. Classification: All Kittitas County shorelands shall be classified as having either a high, medium, or low aquifer recharge potential. At a minimum, classification shall be based on soil permeability and recharge potential as described within the Soil Survey of Kittitas County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, presence or absence of restrictive layers, surface and groundwater monitoring data, wellhead protection areas, depth to groundwater, topography (i.e., slopes), and locally adopted groundwater protection plans and studies. Land classified as having a high, medium, or low aquifer recharge potential shall also be classified as having a high, medium, or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest. All wellhead protection areas shall be designated as highly susceptible critical aquifer recharge areas. Wellhead Protection Areas are the areas defined by the boundaries of the 10-year time of ground water travel, in accordance with WAC 246-290-135.

### T. Regulations— Critical Aquifer Recharge Areas Protection Standards

1. Protection standards for critical aquifer recharge areas have been incorporated into the water quality regulations in Section 4.6 and into the provisions for specific shoreline uses in Chapter 3. Such standards shall be considered the minimum necessary to protection critical aquifer recharge areas.

[Jurisdiction] Shoreline Master Program

2. New development in a critical aquifer recharge area shall meet the following standards:
  - a. The proposed development will not cause contaminants to enter the aquifer and will not significantly adversely affect the recharging of the aquifer.
  - b. The proposed development must comply with applicable water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Health, and the Kittitas County health department.
  - c. The proposed development must be designed and constructed in accordance with applicable storm water management standards
3. When located within an area of medium or high aquifer susceptibility, aboveground/underground storage tanks or vaults for the storage of hazardous substances, animal wastes, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by Kittitas County Public Health, consistent with WAC 173-303, as a risk to groundwater quality, shall be designated and constructed so as to:
  - a. Prevent the release of such substances to the ground, groundwaters, or surface waters;
  - b. Be contained or enclosed by an impervious containment area with a volume greater than the volume of the storage tank or vault to avoid an overflow of the containment area;
  - c. Provide for release detection;
  - d. Provide written spill response and spill notification procedures to the local fire district;
  - e. Use material in the construction or lining of the storage containment area which is compatible with the substance to be stored to protect against corrosion or leakage, or otherwise designed in a manner to prevent the release or threatened release of any storage substance; and
  - f. Comply with Chapters 173-303 and 173-360 WAC.
  - g. The tanks must comply with Department of Ecology regulations contained in Chapters 173-360 and 173-303 WAC as well as International Building Code requirements.
4. The Administrator may grant a waiver from one or more of the above requirements (in 3 a through g) upon a finding that the aboveground storage activity would not create a significant risk to groundwater quality. Aboveground or underground storage facilities designed and maintained according to an approved plan from the Natural Resources Conservation Service or Kittitas County Conservation District are exempt from these requirements but remain under the jurisdiction of the County to ensure compliance with the protective features of this section and for enforcement purposes.
5. The use of fertilizers, herbicides, pesticides, or other chemical for vegetation management within critical aquifer recharge areas shall adhere to the best management practices to prevent impacts to water quality and water supply. Where

## [Jurisdiction] Shoreline Master Program

the application of such chemicals covers five (5) or more acres, a mitigation plan shall be required pursuant the regulations listed below.

6. The following development activities, when proposed in medium or high susceptibility critical aquifer recharge areas, have the potential to adversely affect ground water quality and/or quantity and may only be allowed subject to the County's review and approval of a special hydrogeological assessment prepared by a qualified professional:
  - a. Vehicle repair, servicing and salvaging facilities; provided, that the facility must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur. Dry wells shall not be allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity;
  - b. Use of reclaimed wastewater must be in accordance with adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology;
  - c. Any other development activity that the administrator determines is likely to have a significant adverse impact on ground water quality or quantity, or on the recharge of the aquifer. The determination must be made based on credible scientific information.
7. New landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste of more than 2,000 cubic yards, and inert and demolition waste landfills.
8. Underground injection wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
9. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade).
10. Facilities that store, process, or dispose of chemicals containing perchloroethylene (PCE) or methyl tertiary butyl ether (MTBE).

### U. Regulations— Critical Aquifer Recharge Areas Reports

1. When required b this code, hydrogeological reports for developments in critical aquifer recharge areas shall include the following information in addition to the general mitigation requirements listed above:
  - a. Geologic setting and soils information for the site and surrounding area;

## [Jurisdiction] Shoreline Master Program

- b. Water quality data, including pH, temperature, dissolved oxygen, conductivity nitrates, and bacteria;
- c. Location and depth of perched water tables;
- d. Recharge potential of facility site (permeability/transmissivity);
- e. Hydrologic budget;
- f. Local groundwater flow, direction, and gradient;
- g. Location, depth, and other water quality data on the three shallowest wells or springs located within one thousand (1,000) feet of the site;
- h. Impacts on wellhead protection areas located within the development proposal;
- i. Surface water locations within one thousand (1,000) feet of the site;
- j. Discussion of the effects of the proposed project on groundwater quality and quantity;
- k. Recommendations on appropriate mitigation, if any, to assure that there shall be no measurable exceedence of minimum state groundwater quality standards or measurable reduction in available quantity of groundwater;
- l. Emergency management plan; and
- m. Contaminant release detection.

### **4.3 Flood hazard reduction**

The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of non-structural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs; as well as structural measures such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Additional relevant provisions are in WAC 173-26-221(2). [WAC 173-26-221(3)(a)]

#### A. Policies

1. There are significant areas of developed and undeveloped land that lie within flood prone areas. Efforts should be taken to minimize future development in flood prone areas in order to protect public health and private property. [New—from *Inventory and Characterization Report and community visioning process*]
2. Flood control works in shoreline areas shall be subject to the policies and regulations of this section and Chapters 4 and 5. [Douglas County SMP 4.5]
3. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a river, channel migration zone, floodway, or lakes should not be allowed. [WAC 173-26-221(3)(c)(i)]
4. Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible. [WAC 173-26-221(3)(c)(ii)]

[Jurisdiction] Shoreline Master Program

5. Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood hazard reduction measures and structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs. *[Douglas County SMP 4.5, see also WAC 173-26-221(3)(b)(i)]*
6. Where feasible, flood hazard reduction measures should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features may include but not be limited to vegetated berms; and vegetative stabilization, including brush matting and buffer strips and retention of existing trees, shrubs and grasses on banks. *[Douglas County SMP 4.5, see also WAC 173-26-221(3)(b)(i) and 173-26-221(3)(c)(iv)]*
7. Planning and design of flood hazard reduction measures should be consistent with and incorporate elements from applicable watershed management plans, comprehensive flood hazard mitigation plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and WAC 173-26. *[WAC 173-26-221-(3)(b)(ii)]*
8. Assure that flood hazard reduction measures result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes. *[WAC 173-26-221(3)(b)(iv)]*
9. Flood control measures should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained. *[Douglas County SMP 4.5]*
10. The jurisdictions should plan for and facilitate returning river and stream corridors to more natural hydrological conditions, recognizing that seasonal flooding is an essential natural process. *[WAC 173-26-221(3)(b)(v)]*
11. When evaluating alternate flood control measures, property owners and developers shall consider the removal or relocation of structures in flood-prone areas. *[WAC 173-26-221(3)(b)(vi)]*
12. Flood protection measures should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained. *[Douglas County SMP 4.5]*

[Jurisdiction] Shoreline Master Program

B. Regulations

1. Development in floodplains should not significantly or cumulatively increase flood hazards or be inconsistent with comprehensive flood hazard management plans adopted pursuant to Chapter 86.12 RCW. [WAC 173-26-221(3)(c)(i)]
2. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be permitted when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. [WAC 173-26-221(3)(c)(i)]
3. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:
  - a. Actions that protect or restore the ecosystem-wide processes or ecological functions.
  - b. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.
  - c. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.
  - d. Mining when conducted in a manner consistent with Section 5.9 Mining, the shoreline environment designation, and with the provisions of WAC 173-26-241(3)(h).
  - e. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.
  - f. Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.
  - g. Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
  - h. Modification 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.
  - i. Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding.
  - j. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.  
[WAC 173-26-221(3)(c)(i)]
4. Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are

## *[Jurisdiction]* Shoreline Master Program

necessary to protect existing development; that nonstructural measures are not feasible; that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with Section 4.5 Vegetation Conservation, and WAC 173-26-221(5). *[WAC 173-26-221(3)(c)(ii)]*

5. Structural flood hazard reduction measures shall be consistent with the adopted Kittitas Hazard Mitigation Plan that evaluates cumulative impacts to the watershed system. *[WAC 173-26-221(3)(c)(ii)]*
6. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce 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. *[WAC 173-26-221(3)(c)(iii)]*
7. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigated significant ecological impacts, unavoidable conflict with the proposed use, or cost that is disproportionate and unreasonable to the total long-term cost of the development. *[WAC 173-26-221(3)(c)(iv)]*
8. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with the provisions of WAC 173-26, Section 5.8 Dredging and dredge material disposal and Section 5.13 Mining; and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. *[WAC 173-26-221(3)(c)(v)]*

### **4.4 Public Access**

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise. *[WAC 173-26-221(4)(a)]*

#### **A. Policies**

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety. *[WAC 173-26-221(4)(b)(i)]*

*[Jurisdiction]* Shoreline Master Program

2. Protect the rights of navigation and space necessary for water-dependent uses. *[WAC 173-26-221(4)(b)(ii)]*
3. To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water. *[WAC 173-26-221(4)(b)(iii)]*
4. Public shoreline access should not cause negative impacts to surrounding properties, such as litter or trespass.
5. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water. *[WAC 173-26-221(4)(b)(iv)]*
6. Access to shorelines should be incorporated in new development and may be physical and/or visual to provide the public with the opportunity to enjoy the water's edge, and view the water and shoreline. *[WAC 173-26-221(4)(b)(iii)]*
7. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. *[WAC 173-26-221(4)(d)(ii)]*
8. Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, fair and effective.
9. Shoreline use and development activities should be designed and operated to minimize obstructions of the public's visual access to the water and shoreline.
10. The linkage of shoreline parks, recreation areas and public access points by hiking paths, bicycle paths, easements and/or scenic drives, should be encouraged.
11. Public access should be designed for accessibility by disabled persons.
12. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. *[WAC 173-26-221(4)(d)(ii)]*
13. Public access improvements shall not result in a net loss of shoreline ecological functions. *[WAC 173-26-221(4)(d)(v)]*

## *[Jurisdiction]* Shoreline Master Program

14. Existing public access points, including parks, trailheads, and boat launches shall be maintained to support public use and enjoyment of shorelines. *[New—community visioning process]*
15. Seek opportunities to establish new boat launches and picnic areas along the Yakima River, the Columbia River, and along Lake Cle Elum. *[New—community visioning process]*
16. Boat launches at Rinehart Park in Ellensburg should be protected and repaired, or relocated. *[New—community visioning process]*
17. Additional user amenities at or along shorelines in the Rural Conservancy and Urban Conservancy environments, such as parking areas, restrooms, benches, picnic tables, and signage should be added throughout the region to improve the recreational experience along shorelines. *[New—community visioning process]*

### B. Regulations

1. Public access shall consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays. *[WAC 173-26-221(4); Douglas County SMP 4.6]*
2. Shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, should provide public access as part of each development project, unless such access is shown to be incompatible with the Program due to reasons of safety, security, or adverse impacts to shoreline functions and processes. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
3. Shoreline development by private entities should provide public access when the development would either generate a public demand for one or more forms of such physical or visual access, or would impair existing legal access opportunities or rights. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
4. Public health and safety concerns associated with community or public access sites should be adequately mitigated. Appropriate precautions should be taken to prevent adverse impacts on shoreline ecological processes or functions. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
5. Efforts to implement the public access provisions of this section shall be consistent with all relevant constitutional and other legal limitations on regulation of private property and the principles of nexus and proportionality. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
6. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be reasonable, effective and

[Jurisdiction] Shoreline Master Program

fair to all affected parties including but not limited to the landowner and the public.  
[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]

7. Where feasible, providers of shoreline public access should:
  - a. Locate and design public access improvements in a manner that is compatible with the natural shoreline character and avoids adverse impacts to shoreline ecological processes and functions; and
  - b. Ensure public access improvements and amenities are safe, respect individual privacy, and avoid or minimize visual impacts from neighboring properties; and
  - c. Provide maps, signage, and orientation information to inform the public of the presence and location of privately held shorelands, especially those adjacent to public access and recreational areas; and
  - d. Incorporate programs, signage and informational kiosks into public access locations, where appropriate, to enhance public education and appreciation of shoreline ecology and areas of historical or cultural significance.  
[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
8. Opportunities to provide visual and/or physical public access shall be evaluated during the review and conditioning of all proposed commercial and industrial shoreline developments and residential developments involving more than four (4) residential parcels. [WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
9. Dedicated space for physical public access shall be incorporated into all development proposals on public lands, all public and private commercial and industrial uses /developments, and all residential subdivisions of greater than four (4) parcels unless the project proponent demonstrates that any of the following conditions exist:
  - a. Unavoidable public health or safety hazards exist and cannot be prevented through reasonable means; or
  - b. The use /development has inherent security or cultural sensitivity requirements that cannot be mitigated through reasonable design measures or other solutions; or
  - c. The provision of public access for the proposed development is not consistent with all relevant constitutional and other legal limitations on regulation of private property and the principles of nexus and proportionality; or
  - d. The cost of providing the access, easement or an alternative amenity is disproportionate to the total long-term cost of the proposed development; or
  - e. The public access will cause unacceptable environmental impacts that cannot be mitigated; or
  - f. The access would create significant, undue, and unavoidable conflicts with adjacent uses that cannot be mitigated.  
[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
10. To be relieved from the public access requirements listed above in subsection 9, the project proponent must demonstrate that all feasible alternatives have been considered, including, but not necessarily limited to:

[Jurisdiction] Shoreline Master Program

- a. Regulating access through means such as maintaining a gate and/or limiting hours of use; and
- b. Separating uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.).  
*[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*

11. The public access requirement is met where a single-family residential development of greater than four (4) parcels but less than ten (10) parcels provides community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use of the property owners and guests within the proposed subdivision. The proponent shall provide visual access to the shoreline via view corridors within the subdivision as illustrated on the final plan and as determined by the Administrator. Existing lawfully established public access shall be maintained. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
12. When physical public access is deemed to be infeasible based on considerations listed in subsections 9 and 10 above, the proponent shall provide visual access to the shoreline or provide physical access at an off-site location geographically separated from the proposed use/developmental (e.g., a street end, vista, or trail system), or for a residential development, provide community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use of the property owners and guests within the proposed subdivision. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
13. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure public safety. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
14. When otherwise consistent with this Program, public access structures shall be allowed within required shoreline buffers of this Program, meaning that such structures shall be allowed to encroach into the shoreline buffer when necessary to provide physical and or visual access to the water's edge. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
15. Public shoreline access provided by public road ends, public road rights-of-way, public utilities and rights-of-way shall not be diminished by the County, neighboring property owners, or other citizens, unless the property is zoned for industrial uses in accordance with RCW Chapter 36.87.130. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*
16. Public access sites shall be directly connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible and impacts to shoreline ecology are mitigated. *[WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]*

[Jurisdiction] Shoreline Master Program

17. Opportunities for boat-in public access and access to primitive shorelines not accessible by automobile shall be provided where feasible and appropriate. [WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
18. When required for public land, commercial, port or industrial use/development, public access sites shall be fully developed and available for public use prior to final occupancy of such use or development. [WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
19. Public access easements, dedications, and permit conditions shall be recorded on the deed of title and/or the face of a short or long plat as a condition running, at a minimum, for a period contemporaneous with the duration of the authorized land use. Recording of such easements, dedications, and conditions shall occur at the time of final plat approval or prior to final occupancy. [WAC 173-26-221(4); Draft Spokane County SMP 5.2.8]
20. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary. [WAC 173-26-221(4); Douglas County SMP 4.2]
21. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements. [WAC 173-26-221(4); Douglas County SMP 4.2]
22. Maintenance of the public access facility shall be the responsibility of the owner or home owner's association, unless otherwise accepted by a public or non-profit agency through a formal agreement recorded with the County Auditor's Office. [WAC 173-26-221(4); Douglas County SMP 4.2]
23. Access improvements shall not result in a net loss of shoreline ecological functions and values. [WAC 173-26-221(4); WAC 173-26-221(4)(d)(v)]
24. Rights of navigation shall be protected in conformance with the provisions of this Program. [WAC 173-26-221(4); WAC 173-26-221(4)(b)(ii)]
25. Public Access is required for developments that proposed to be water-enjoyment, water-related non-water-oriented including the subdivision of land into more than four parcels. [WAC-26-221(4)(d)]

#### **4.5 Shoreline vegetation conservation**

Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction

## *[Jurisdiction]* Shoreline Master Program

of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices. *[WAC 173-26-221(5)(a)]*

### A. Policies

1. Native shoreline vegetation should be conserved to maintain shoreline ecological functions and processes and mitigate the direct, indirect and cumulative impacts of shoreline development, wherever feasible. Disturbance of native plant communities should be avoided. Disturbed areas should be revegetated with native plant species appropriate to the soil and hydrologic conditions. *[Douglas County SMP 4.3]*
2. Encourage noxious and invasive weed management and control. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. *[Douglas County SMP 4.3]*
3. Selective pruning may be allowed for safety or limited view retention purposes and when consistent with Section 4.2 Critical Areas. *[Douglas County SMP 4.3]*
4. Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions. *[Douglas County SMP 4.7]*
5. Mitigation associated with shoreline development projects shall be designed to achieve no net loss of ecological function. *[Douglas County SMP 4.7]*
6. The county should seek funding from state, federal, private and other sources to implement restoration, enhancement, and acquisition projects. *[Douglas County SMP 4.7]*
7. Develop processing guidelines that will streamline the review of restoration only projects. *[Douglas County SMP 4.7]*
8. Encourage public and private shoreline owners to promote the proliferation of native, noninvasive wildlife, fish and plants. *[Douglas County SMP 4.7]*
9. Restoration projects should be coordinated with local public utility and conservation districts. *[Douglas County SMP 4.7]*

[Jurisdiction] Shoreline Master Program

10. Ensure that long-term maintenance and monitoring of restoration sites is included in the original permitting of the project. *[Douglas County SMP 4.7]*
11. Allow for the use of tax incentive programs, mitigation banking, restoration grants, land swaps, or other programs, as they are developed, to encourage restoration of shoreline ecological functions and to protect habitat for fish, wildlife and plants. *[Douglas County SMP 4.7]*
12. Jurisdictions should pursue the development of a public benefit rating system that provides incentives for the restoration of the shoreline. *[Douglas County SMP 4.7]*
13. Jurisdictions should coordinate with state resource agencies to develop educational materials which promote the maintenance and restoration of shoreline functions. Educational materials shall provide resources for a variety of scenarios and trends occurring within the shoreline that is reflected in the inventory and analysis, such as: the conversion of agricultural land to non-agricultural use, existing and ongoing agricultural uses, and existing or planned residential and commercial development. *[Douglas County SMP 4.7]*
14. Encourage the agricultural industry to continue to work closely with agencies, such as the Natural Resource Conservation Service and Conservation Districts, with expertise in agricultural practices and restoration to improve degraded shoreline functions. *[Douglas County SMP 4.7]*

B. Regulations *[Douglas County SMP 4.3, unless noted otherwise]*

Shoreline developments shall address conservation and maintenance of vegetation through compliance with the critical area standards in Section 4.2.

1. Where impacts to buffers are permitted under Section 4.2 Critical Areas, new developments shall be required to develop and implement a management and mitigation plan. When required, management and mitigation plans shall be prepared by a qualified biologist and shall be consistent with the requirements in Section 4.2. Management and mitigation plans shall describe actions that will ensure no net loss of ecological functions. Vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the County Auditor.
2. Pruning of native trees for safety and view protection may be permitted if consistent with the provisions of Section 4.2 Critical Areas.
3. Native vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development.

## *[Jurisdiction]* Shoreline Master Program

4. Removal of noxious weeds and/or invasive species shall be incorporated in management and mitigation plans, as necessary, to facilitate establishment of a stable community of native plants.
5. Vegetation removal not associated with a development permit application requires the submittal and approval of a management and mitigation plan prepared by a qualified biologist, and must be consistent with the provisions of Section 4.2 Critical Areas.
6. Filling, clearing and grading in vegetated shoreline areas shall be in conformance with the provisions of Section 5.9 Filling, Grading, and Excavation; in addition to Section 4.2 Critical Areas, and the provisions of this Program.
7. With the exception of hand removal or spot spraying of noxious weeds, the determination of whether non-native vegetation removal may be permitted must be evaluated in conformance with Section 4.2 Critical Areas.

### **4.6 Water quality, stormwater, and nonpoint pollution**

The following section applies to all development and uses in shorelines of the state, as defined in WAC 173-26-020, that affect water quality. *[WAC 173-26-221(6)(a)]*

To ensure mutual consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity, including public health, stormwater, and water discharge standards, the regulations that are most protective of ecological functions shall apply. *[WAC 173-26-221(6)(b)(ii)]*

#### A. Policies

1. Prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities. *[WAC 173-26-221(6)(b)(1)]*
2. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long-term. *[Douglas County SMP 4.2]*
3. Shoreline use and development should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values *[Douglas County SMP 4.2]*
4. Appropriate buffers along all wetlands, streams, and lakes should be provided and maintained in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices. *[Douglas County SMP 4.2]*

[Jurisdiction] Shoreline Master Program

B. Regulations

[Douglas County SMP 4.2]

1. Shoreline development and use shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws.
2. New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management standards. Deviations from these standards may be approved where it can be demonstrated that offsite facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
3. Best management practices (BMP's) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control plan, identified in the Stormwater Management Manual for Eastern Washington, as amended.
4. To avoid water quality degradation by malfunctioning or failing septic systems located in the shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards.
5. All building materials that may come in contact with water shall be constructed of untreated wood, cured concrete, or steel. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants. Wood treated with creosote, arsenate compounds, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.
6. Permanent stormwater management systems serving property within the shoreline shall be designed using BMP's ensuring water quality treatment in compliance with the Stormwater Management Manual for Eastern Washington to prevent stormwater runoff from degrading or adding to the pollution of recipient waters or adjacent properties. Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and /or improvement plans.

## 5. Shoreline use and modification policies and regulations

Sections:

- 5.1 General Shoreline Use Policies
- 5.2 General Shoreline Modification Policies
- 5.3 Agriculture
- 5.4 Aquaculture
- 5.5 Boating facilities, marinas, piers, and docks
- 5.6 Commercial development
- 5.7 Dredging and dredge material disposal
- 5.8 Filling, grading, and excavation
- 5.9 Forest Practices
- 5.10 Industrial and port development
- 5.11 In-stream structures
- 5.12 Mining
- 5.13 Recreation
- 5.14 Residential development
- 5.15 Shoreline stabilization
- 5.16 Shoreline habitat enhancement
- 5.17 Signs
- 5.18 Transportation
- 5.19 Utilities
- 5.20 Shoreline bulk and dimensional standards

This chapter contains policies and regulations for both shoreline uses and modifications. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use, and are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading application of chemicals, or significant vegetation removal.

### 5.1 **General Shoreline Use Policies**

#### A. Policies

1. Use and development within the shoreline jurisdiction should be consistent with the provisions of the environment designation in which they are located and the general regulations of this Program.
2. Some types of shoreline development may require a shoreline conditional use permit to effectively address cumulative impacts or to provide the opportunity to require specially tailored environmental analysis or design criteria. Shoreline uses that require a conditional use permit are shown in Table 1. Unanticipated uses that are not classified in Table 1 shall require a shoreline conditional use permit.

## [Jurisdiction] Shoreline Master Program

3. New development should be set back an adequate distance to protect ecological function and protect structures from flooding and channel migration hazards.

### **5.2 General Shoreline Modification Policies**

#### A. Policies

1. Structural shoreline modifications should generally be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. To reduce the adverse effects of shoreline modifications and, as much as possible, shoreline modifications shall be limited in number and extent.
3. Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.
5. Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
6. Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).

### **5.3 Agriculture**

#### A. Policies

1. Recognize the importance of agriculture in Kittitas County and support its continued economic viability.
2. Allow lawfully established agricultural activities occurring on agricultural lands to continue as they historically have. New agricultural activities on land not currently used for agriculture, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities (including any agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv)) should meet shoreline requirements.
3. Encourage animal feedlot operations to locate away from shorelines.

## *[Jurisdiction]* Shoreline Master Program

4. Appropriate vegetation management and Natural Resources Conservation Service conservation practices should be used to avoid and minimize water quality impacts from agricultural activities.
5. Agricultural uses should be encouraged to maintain a buffer of permanent vegetation or other soil erosion control measures between tilled areas and associated water bodies that will restrict surface runoff, protect water quality, improve habitat and reduce siltation.

### B. Regulations

1. For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. To summarize, existing agricultural activities, including maintenance, repair and replacement of existing facilities (roads, buildings, etc.), may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New agricultural facilities (roads, buildings, etc.) are subject to shoreline review or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.
2. New agricultural activities on lands that did not have agricultural activities in place on March 5, 1975 (the date of adoption of this Master Program); conversion of agricultural lands to non-agricultural activities; the development of non-agricultural activities on agricultural lands; and uses in support of agricultural activities are governed by the provisions of this Master Program and subject to the following criteria:
  - a. Uses and activities shall be consistent with the environment designation;
  - b. Uses and activities shall be located and designed to ensure no net loss of ecological functions;
  - c. Uses and activities shall not have a significant impact on other shoreline resources and values.
3. When allowed in a shoreline environment, confined animal feeding operations shall meet the following standards:
  - a. Applicants shall submit a proposed site plan that indicates:
    - i. Maximum number and type of livestock to be kept on the site;
    - ii. Existing and proposed contour of the land and topographic features;
    - iii. Groundwater profiles, streams and drainage ways;
    - iv. Soil types;
    - v. Existing and proposed building locations;
    - vi. Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites;

## [Jurisdiction] Shoreline Master Program

- vii. Other use areas such as feed storage, animal movement routes and animal pens.
  - b. A site plan judged by the Administrator to be insufficient for the protection of the shoreline environment shall cause denial of the application.
4. New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.
  5. Discharge of any manure storage facility into ground or surface water is prohibited.

### **5.4 Aquaculture**

#### **A. Policies**

1. Aquaculture is a water-dependent use and is a preferred use of the shoreline when consistent with control of pollution, avoidance of adverse impacts to the environment and preservation of habitat for resident native species.
2. Ensure that aquacultural uses do not conflict with other water-dependent uses or navigation, spread disease, establish non-native species that cause significant ecological impact, or significantly impact the aesthetic qualities of the shoreline. Protect spawning areas designated by the Department of Fish and Wildlife from conflicting uses.
3. Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts and lesser impacts, to native plant and animal species. In general, projects that require either no structures or submerged structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food
4. Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species; adversely impact other habitat conservation areas; or interfere with navigation or other water-dependent uses.

#### **B. Regulations**

1. All structures located within water bodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.

[Jurisdiction] Shoreline Master Program

2. Aquaculture facilities shall avoid significant conflict with water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities.

**5.5 Boating facilities, marinas, piers, and docks**

A. Policies

1. Ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses. All marinas should be developed and operated in accordance with all state and local requirements.
2. In planning for marina location and design, special consideration should be given to facilities such as adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.
3. Boating facilities should provide public physical and visual shoreline access and provide for multiple uses, including water-related use, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.
4. Accessory uses at marinas or launch ramps should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public.
5. Special care should be given to preventing and controlling invasive species infestations at boat launches.
6. Piers and docks should only be allowed for water dependent uses and public access, except that water enjoyment and water related uses may sometimes be included as part of a mixed use development. New piers and docks must have a specific need and must be the minimum size necessary. The cooperative use of piers and docks is encouraged.
7. New piers and docks, excluding docks accessory to single family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support intended water-dependent or public access use.
8. A port district or other public or commercial entity involving water-dependent may demonstrate a future need for a pier or dock according to WAC 173-26-231(2)(F)(b), and seek approval of a pier design, size, and construction.
9. New and existing docks should be designed to be fish-friendly (e.g. grating to allow light penetration, and use of non-toxic materials).

B. Regulations

1. Boating facilities, marinas and extended mooring sites shall:

[Jurisdiction] Shoreline Master Program

- a. Comply with the health, safety and welfare standards of State and local agencies for such facilities;
  - b. Be so located and designed as not to obstruct or cause danger to normal public navigation of water bodies;
  - c. Be restricted to suitable locations and should avoid locating in critical habitat including spawning and holding areas for anadromous fish;
  - d. Avoid or mitigate for aesthetic impacts;
  - e. Mitigate special impacts of live-aboard vessels, such as water and wastewater needs, and garbage collection ;
  - f. Mitigate impacts to existing public access and navigation;
  - g. Provide documentation of ownership or authorization to use associated water areas;
  - h. Demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design;
  - i. Submit an operations and site plan demonstrating:
    - i. Location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality;
    - ii. Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;
    - iii. Adequate facilities to properly handle wastes from holding tanks;
    - iv. That boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access;
    - v. Adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.
2. Piers and dock construction shall be the minimum size necessary to meet the needs of the use.
  3. New pier or dock construction, excluding docks accessory to single-family residences must demonstrate that a specific need exists to support the intended water-dependent or public access use.
  4. New residential development of two or more dwellings must provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.
  5. All piers and docks shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions and critical areas, see Section 4.2 Critical Areas. Structures should be made of materials that have been approved by the Department of Fish and Wildlife.

## **5.6 Commercial development**

### **A. Policies**

1. Limit commercial development to those activities that are particularly dependent upon a shoreline location. Other commercial uses should be encouraged to locate upland.
2. Give first preference to water-dependent commercial uses over non-water-dependent commercial uses; and give second preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses. Allow non-water-oriented commercial uses in limited situations.
3. Commercial uses located in the shoreline should provide public access unless such improvements are demonstrated to be infeasible or present hazards to life and property.

### **B. Regulations**

1. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment commercial uses. Prior to approval of water-dependent uses, the Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-dependent use.
2. Non-water-oriented commercial uses may be permitted in the high intensity environment with a conditional use permit where located on a site physically separated from the shoreline by another property in separate ownership, or by a public right-of-way, such that access for water-oriented use is precluded. All other non-water-oriented commercial uses are prohibited in the shoreline unless the use provides significant public benefit with respect to the objective of the Act such as providing public access and ecological restoration and the commercial use is:
  - a. Part of a mixed use project that includes a water-dependent use; or
  - b. Proposed on a site where navigability is severely limited.
3. Commercial development shall not result in a net loss of ecological functions have significant adverse impacts to other shoreline uses, resources and values, such as navigation, recreation, and public access.
4. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water dependent development unless such improvements are demonstrated to be infeasible or inappropriate.
5. Only those portions of water-dependent commercial uses that require over-water facilities shall be permitted to locate waterward of the OHWM, provided they are located on piling or other open-work structures, and they are limited to the minimum size necessary to support the structures intended use.

[Jurisdiction] Shoreline Master Program

6. Non-water-dependent commercial uses shall not be allowed over water except in limited instances where they are appurtenant and necessary to support water-dependent uses.

**5.7 Dredging and dredge material disposal**

A. Policies

1. Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
2. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new and/or maintenance dredging.
3. Dredging for the purpose of establishing, expanding, relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.
4. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized locations, depths and widths.
5. Dredge material disposal on land away from the shoreline is generally preferred over open water disposal.
6. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material should not be allowed, except when the material is necessary for the restoration of ecological functions.
7. Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged.

B. Regulations

1. All applications for Substantial Development Permits that include dredging shall supply a dredging plan that includes the following information:
  - a. The quantity of material to be removed.
  - b. The method of removal.
  - c. Location of spoil disposal sites and measures that will be taken to protect the environment around them.
  - d. Plans for the protection and restoration of the shoreline environment during and after dredging operations.

*[Jurisdiction]* Shoreline Master Program

2. A dredging operation judged by the Administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a Substantial Development permit.
3. Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement, maintenance or construction of water-dependent uses.
4. Minor trenching to allow the installation of necessary underground pipes or cables may be allowed if no alternative, including boring, is feasible, and:
  - a. Impacts to fish and wildlife habitat are avoided to the maximum extent possible.
  - b. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
  - c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
  - d. Mitigation is implemented, as appropriate, pursuant to Section 4.2 Critical Areas.
5. Dredging for the purpose of obtaining landfill material is prohibited, except when permitted under Section 5.11 Mining.
6. Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.
7. Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.
8. Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.
9. Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage.
10. Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.
11. Dredge spoils are also considered fill, and shall not be deposited within the shoreline except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.
12. Disposal of dredge material within a river's channel migration zone shall require a conditional use permit.
13. Dredge material disposal on land away from the shoreline is permitted under the following conditions:

## [Jurisdiction] Shoreline Master Program

- a. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water.
- b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
- c. Sites will be adequately screened from view of local residents or passersby on public right-of-ways.

### **5.8 Filling, grading, and excavation**

#### A. Policies

1. Filling, grading, and excavation should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
2. Allow normal and reasonable land grading and filling where necessary to develop a land area for a permitted use. There should be no substantial changes made in the natural drainage patterns and no reduction of flood water storage capacity that might endanger other areas. Allow filling, grading, and excavation within the ordinary high water mark only when necessary to support water dependent uses, public access, transportation facilities, mitigation, restoration, enhancement, and certain special situations listed in WAC173-26-231(3)(c).
3. In evaluating filling, grading, and excavation projects, such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat should be examined.
4. Locate and design shoreline fills or cuts to avoid creating a hazard to adjacent life, property, and natural resources systems, and to provide all perimeters of fills with vegetation, retaining walls, or other mechanisms for erosion prevention.

#### B. Regulations

1. Filling, grading or excavation waterward of the ordinary high-water mark for any use except ecological restoration shall require a conditional use permit.
2. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support:
  - a. Water-dependent use;
  - b. Public access;
  - c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
  - d. Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources; or

[Jurisdiction] Shoreline Master Program

- e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible.
3. Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.
4. Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.
5. Fill in floodplains shall meet the requirements of section 4.3 Flood Hazard Reduction.
6. Pile or pier supports shall be preferred over fill for water-dependent uses and facilities.
7. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.
8. Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.
9. Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.
10. Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.
11. Excavation that occurs either waterward of the OHWM or within wetlands shall be considered dredging for purposes of this Program.
12. Filling, grading or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated, as applicable.
13. Filling, grading, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long-term appropriate use including lawful access and enjoyment of scenery.

## [Jurisdiction] Shoreline Master Program

14. Cut and fill slopes shall generally be no steeper than one foot vertical for every three feet horizontal unless a specific engineering analysis has been provided certifying that the proposed slope is stable, and the Administrator determines that the fill blends physically and visually with existing topography.
15. A temporary erosion and sediment control (TESC) plan, consistent with the standards found in the Stormwater Manual for Eastern Washington, shall be provided for all proposed filling, grading and excavation activities.
16. Excavation and grading for the primary purpose of restoration of shoreline habitat and the natural character of the shoreline must demonstrate the following:
  - a. A net increase in ecological function within the project boundaries
  - b. The site is currently degraded and provides limited ecological function
  - c. The project complies with the provisions of Section 4.2 Critical Areas.

### **5.9 Forest Practices**

#### **A. Policies**

1. Shoreline areas having well-known scenic qualities (such as those providing a diversity of views, unique landscape contrasts, or landscape panoramas) should be maintained as scenic views in timber harvesting areas. Timber harvesting practices, including road construction and debris removal, should be closely regulated so that the quality of the view and viewpoints along shorelines of statewide significance in the region are not degraded.
2. Forest management shall proceed in accordance with regulations established by the Washington State Forest Practices Act, including coordination with Kittitas County on forest practice conversions and other Class IV-forest practices where there is a likelihood of conversion to non-forest uses.
3. Ensure that timber harvesting on shorelines of statewide significance does not exceed the limitations established in RCW 90.058.150 (regarding selective harvest requirements), except as provided in cases where selective logging is rendered ecologically detrimental or is inadequate for preparation of land for other uses.
4. Accomplish reforestation in shorelines as quickly as possible. Replanting should be done with native species common to the area.
5. Forest lands should be reserved for long term forest management and other uses compatible with forest use.

#### **B. Regulations**

1. All federal forest practices or non-federal forest practices meeting the criteria below shall qualify for an exemption from this Program. All forest practices qualifying for

## [Jurisdiction] Shoreline Master Program

this exemption shall demonstrate compliance by providing a copy of the federal approval or state Forest Practices Permit. To qualify for an exemption a non-federal forest practice must meet the following criteria:

- a. The activities includes harvest/treatment of at least 5 acres of forestland, or supporting such an operation;
  - b. All harvesting within 200' of the ordinary high-water mark of a Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest), as amended;
  - c. The activities are not associated with a Conversion Option Harvest;
  - d. The activities are approved under a forest practices permit;
  - e. The activities are not associated with a harvest under a Class IV–General application to convert forest land to non-forestry use.
2. Non-federal forest practices not meeting criteria (a), (b), or (c) above shall require a conditional use permit.
  3. Non-federal forest practices not meeting criteria (d) above (Class 1 forest practices activities not requiring Department of Natural Resources review) shall be reviewed as separate uses or activities.
  4. Non-federal forest practices not meeting criteria (e) above shall be reviewed as a new proposed use.
  5. Within the shoreline jurisdiction, development activities associated with timber harvest (such as road construction), land conversion of forest land to non-forest uses, and forest practices not meeting any of the exemptions listed above must conform to all applicable provisions of this Program.

### **5.10 Industrial and port development**

#### **A. Policies**

1. Allocate sufficient quantities of suitable land for water related industry. Give preference to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water-oriented industrial uses. Allow non-water-oriented industrial development in limited situations.
2. Industrial development shall be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
3. Discourage industries which have proven to be environmentally hazardous from locating along the shorelines.

## *[Jurisdiction]* Shoreline Master Program

4. Industrial development should consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-221(4).
5. Where industrial use is proposed for location on land in public ownership, public access should be required.
6. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

### B. Regulations

1. Industrial uses are allowed subject to the policies and regulations of this Program and the specific criteria below:
  - a. Water-dependent industrial uses shall be given preference over non-water dependent industrial uses and, second, preference shall be given to water-related industrial uses over non-water-oriented industrial uses. Prior to approval of water-dependent uses, the Administrator shall review a proposal for design, layout and operation of the proposed use and shall make specific findings that the use qualifies as water-dependent.
  - b. Non-water-oriented industrial uses may be permitted where located on a site physically separated from the shoreline by another property in separate ownership or a public right-of-way such that access for water-oriented use is precluded. All other non-water-oriented industrial and port uses are prohibited in the shoreline unless the use provides significant public benefit with respect to the objective of the Act and is:
    - i. Part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
    - ii. Navigability is severely limited at the proposed site, and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
  - c. Industrial development shall be located, designed and constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
2. Required setback areas shall not be used for storage of industrial equipment, materials, or waste disposal, but may be used for outdoor recreation and public

## [Jurisdiction] Shoreline Master Program

access. Portions of side setbacks may be used for light motor vehicle parking if design of such facilities is consistent with this Program.

3. Disposal or storage of solid or other industrial wastes is not permitted on shorelines.
4. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water dependent development unless such improvements are demonstrated to be infeasible or inappropriate.
5. Only those portions of water-dependent industrial uses that require over-water facilities shall be permitted to locate waterward of the ordinary high water mark, provided they are located on piling or other open-work structures, and they are limited to the minimum size necessary to support the structures intended use.

### **5.11 In-stream structures**

#### **A. Policies**

1. In-stream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long-term, especially in shorelines of statewide significance.
2. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
3. In-stream structures should be located, designed, constructed and maintained so their resultant effects on geologic or hydrologic shoreline processes will not cause damage to other properties or shoreline resources, and so that the physical integrity of the shoreline process corridor is maintained.
4. In-stream structures shall be sited and designed consistent with appropriate engineering principles, including, but not limited to, guidelines of the Natural Resource Conservation Service and the U.S. Army Corps of Engineers.
5. Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to in-stream structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.
6. Planning and design of in-stream structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.

## [Jurisdiction] Shoreline Master Program

### B. Regulations

1. Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, or result in high flood stages and velocities shall not be permitted when feasible alternatives are available.
2. Cut-and-fill slopes and back-filled areas shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.
3. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The jurisdictions may require reasonable conditions to achieve this objective, such as setbacks, buffers, or storage basins.
4. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation.
5. In-stream structures shall allow for natural ground water movement and surface runoff.
6. The jurisdictions shall require professionally engineered design of any proposed in-stream structure.
7. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule.
8. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for one hundred-fifty percent (150%) of the cost of the structure shall be filed with the Administrator prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a Civil Engineer licensed in the State of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.
9. No in-stream structure may commence without having obtained all applicable federal, state, and local permits and approvals, including but not limited to an HPA from the State Department of Fish and Wildlife.

### **5.12 Mining**

#### A. Policies

1. Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes. Mining should not be approved

## [Jurisdiction] Shoreline Master Program

where it could interfere with shoreline ecological functions or processes or cause irreparable damage to shoreline resources or features. Application of this policy shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. The determination of whether there will be no net loss of ecological function shall be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during operation. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species.

2. Mining should not be located on shorelines where unavoidable adverse impacts on other users or resources taken together equal or outweigh the benefits from mining.
3. Mining should not interfere with public recreation on the shoreline.
4. Mining should be located and operated so as to provide long-term protection of water quality, and fish and wildlife habitats.
5. Mining, particularly surface or strip mining, should provide for timely restoration of disturbed areas to a biologically productive, attractive semi-natural, or other useful condition through a reclamation process consistent with regulations administered by the Department of Natural Resources and other applicable local standards.
6. Mining of shorelines having high value for recreation, or as fish or wildlife habitat, should generally not be permitted.
7. Mining should only be permitted where appropriate studies and detailed operation plans demonstrate that:
  - a. Fish habitat, upland habitat and water quality will not be significantly harmed; and
  - b. The operation will not adversely affect geologic or hydrologic processes, channel alignment, nor increase bank erosion or flood damage.
8. Mining operations should be located, designed, and managed so that other appropriate uses are not subjected to substantial or unnecessary adverse impacts from noise, vibration, odor, dust or other effects of the operation. The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts.

### B. Regulations

1. Mining below the ordinary high-water mark of a river shall be permitted only when:
  - a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

[Jurisdiction] Shoreline Master Program

- b. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

Determination of whether the two provisions above have been met shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (chapter 43.21C RCW) and the SEPA rules (chapter 197-11 WAC). The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231 (3)(f).

2. Mining within any channel migration zone that is within the shoreline jurisdiction shall require a shoreline conditional use permit.
3. Mining of, including but not limited to, sand, gravel, cobbles, or boulders from any alkaline lake or shoreline is prohibited.
4. Mining shall not be permitted in designated fish and wildlife habitat areas except as a part of an approved flood control program or in conjunction with a habitat restoration or enhancement plan, provided that such activities are demonstrated to be water-dependent. A determination of water dependency shall be based on an evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, and a need for such mineral resources, economic, transportation, and land use factors. This demonstration may rely on analysis or studies prepared for purposes of comprehensive plan designations, and may be integrated with any relevant environmental review conducted under SEPA (Chapter 43.21 C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a).
5. Application for permits for mining operations shall be accompanied by operation plans, reclamation plans and analysis of environmental impacts in compliance with local ordinances and sufficient to make a determination as to whether the project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining no net loss of ecological functions.
6. The designation of mineral resource lands of long-term commercial significance and the development of mineral resource activities must demonstrate that mining is dependent on a shoreline location, and that demand cannot reasonably be accommodated in operations outside shoreline jurisdiction. Information required to meet this criteria shall evaluate geologic factors such as the distribution and availability of mineral resources and the need for such mineral resources.
7. Renewal, extension, or reauthorization of in-stream and gravel bar mining activities requires review for compliance with WAC 173-26-241 (3)(h)(ii)(D)(IV).

## [Jurisdiction] Shoreline Master Program

8. A reclamation plan that complies with the format and detailed minimum standards of RCW 78.44 shall be included with any shoreline permit application for mining. In reviewing reclamation plans together with permit applications, the Administrator shall determine whether or not the plan is also consistent with this Program and other local regulations. An inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit, provided, the applicant/proponent shall be given reasonable opportunity to revise the plan.
9. Subsequent use of reclaimed sites shall be consistent with the provisions of this Program.

### **5.13 Recreation**

#### **A. Policies**

1. Recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to access (visual and physical), enjoy, and use the water and shoreline in accordance with Section 4.4 Public Access.
2. Recreational uses and development should provide for the preservation and enhancement of scenic views and vistas.
3. Ensure that recreational facilities do not interfere with the use and enjoyment of adjacent properties by providing buffering when necessary between the recreation development and adjacent private property.
4. Recreational uses and facilities should be designed and located to ensure no net loss of critical areas and shoreline ecological functions.
5. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities.
6. Where consistent with the provisions of this Program, development should specifically support opportunities to increase or enhance the following forms of recreation: boating, fishing, camping, hiking, bicycle riding, swimming and picnicking.
7. Commercial recreational facilities should be consistent with the provisions of Section 5.7 Commercial development.

#### **B. Regulations**

1. Recreational development is a priority use of the shoreline. Preference is given to water-dependent uses such as fishing, swimming, and boating. Water-related and water-enjoyment uses such as picnicking, hiking, and walking are permitted provided they do not displace water-dependent uses and are consistent with the specific shoreline environment. Non-water-related recreation facilities and/or support facilities such as parking lots shall be located in upland areas.

[Jurisdiction] Shoreline Master Program

2. Access to recreational areas should emphasize both areal and linear access. Linkage of shoreline parks and public access points by means of linear access should be encouraged.
3. Commercial and public recreation areas or facilities on the shoreline shall provide public access (physical or visual) consistent with Section 4.4, Public Access.
4. Commercial recreational facilities shall be consistent with the provisions of Section 5.7 Commercial development.
5. Recreational uses and facilities shall be designed and located to ensure no net loss of critical areas and shoreline ecological functions
6. Recreation facilities shall be designed to take maximum advantage of and enhance the natural character of the shoreline area. The use of native plant species is preferred over the use of plant types that need extensive maintenance and support (mowing, pruning, irrigation, etc.).
7. Recreational facilities shall incorporate means to prevent erosion, control the amount of runoff and prevent harmful concentrations of chemicals and sediment from entering water bodies in accordance with the policies and regulations of Section 4.6, Water Quality, Storm Water, and Nonpoint Pollution.
8. State-owned shorelines of the state are priority locations for wilderness beaches, ecological study areas and other recreational activities for the general public.
9. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environmental designation.
10. Within the natural environment, passive water-oriented recreational development, such as primitive trails or primitive campsites is permitted subject to the following criteria:
  - a. Substantial alterations to topography or native vegetation are prohibited;
  - b. Any necessary landscaping or site restoration shall use native or similar self-maintaining vegetation.
11. Recreational activities in the urban conservancy and rural conservancy environment must be compatible with existing or proposed uses in the area and must not create a noise, traffic, visual or similar problem.
12. No permanent structures are allowed in the natural environment.

## **5.14 Residential development**

### **A. Policies**

1. Residential development includes single-family development, multi-family development, and the creation of new residential lots through subdivision. Residential development shall be designed and constructed in a way that ensures no net loss of shoreline ecological function.
2. Residential development and appurtenant structures and uses should be set back an adequate distance from steep slope areas and shorelines vulnerable to erosion to ensure that shoreline and/or soil stabilization structures will not be needed to protect the residential use. (e.g. bulk-heads, rip rap or other shoreline or slope stabilization structures.)
3. Residential development and appurtenant structures and uses should be sited in locations sufficiently set back from flood prone areas to ensure that flood hazard protection measures are not necessary to protect the structure.
4. Single family residences are a priority use when planned and built in accordance with the policies and regulations of this Program, including without limitation Section 4.2 Critical Areas and Section 4.6 Water Quality, Stormwater, and Nonpoint Pollution.
5. New multi-unit residential developments, including short plats and subdivisions, should provide access (visual and physical) to the shoreline in conformance with Section 4.4, Public Access.
6. Plans and subdivisions should be designed and configured in a manner that assures no net loss of ecological function results from the plat or subdivision at full build-out of all lots. New lot creation should not create a need for new shoreline stabilization or flood hazard reduction measures and should be consistent with the shoreline environment designation policies and general shoreline policies.
7. Allowable density of new residential development should comply with applicable comprehensive plan goals and policies, zoning restrictions and shoreline environment designation and dimensional standards in this Program.
8. New over-water residences, including floating homes, are not a preferred shoreline use and should be prohibited.
9. Measures to conserve native vegetation should be implemented in conformance with Section 4.2, Critical Areas and Section 4.5 Shoreline Vegetation Conservation.
10. Whenever possible, non-regulatory methods to protect, enhance and restore shoreline ecological functions and other shoreline resources should be encouraged for residential development. Such methods may include resource management

## [Jurisdiction] Shoreline Master Program

planning, low impact development techniques, voluntary protection and enhancement projects, education, and/or incentive programs.

11. Encourage residential development that provides common ownership of the shoreline to protect views of the shoreline, provide equitable access for property owners and to protect the natural character and functions of the shoreline consistent with other provisions in the Master Program.

### B. Regulations

1. New residential development, including lot creation, will not be approved in cases when it can be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the floodway during the life of the development or use.
2. New residential development shall assure that the development will not require shoreline or slope stabilization measures. Where located in a designated geologically hazardous area, a geotechnical analysis of the site and shoreline characteristics shall demonstrate that shoreline stabilization is unlikely to be necessary; setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, riparian shoreline and erosion areas, shall be sufficient to protect structures during the life of the structure; and impacts to adjacent, downslope or down-current properties are not likely to occur during the life of the lots created.
3. New over-water residential structures, including floating homes, are prohibited.
4. New residential development shall be designed to meet minimum required setbacks from critical area buffers and side property lines, maximum height limits and density standards contained in the Section 5.22 Shoreline Bulk and Dimensional Standards.
5. Residential development shall make provisions for vegetation conservation in conformance with Section 4.5 Shoreline Vegetation Conservation.
6. Shoreline access for residential development shall incorporate access to adjacent publicly owned shorelines or public water bodies as provided for in Section 4.4, Public Access.
7. Residential density shall not exceed the maximum set forth in Table 2 Shoreline Bulk and Dimensional Standards.

### **5.15 Shoreline stabilization**

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be

## [Jurisdiction] Shoreline Master Program

protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

Structural stabilization measures can be “hard” or “soft” “Hard” structural stabilization refers to those with solid, hard surfaces, such as concrete bulkheads, while “soft” structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

### A. Policies

1. Nonstructural alternatives of stabilization should be encouraged over structural methods, whenever possible. Such alternatives may include no action, increased building setbacks, building relocation, drainage controls, and bioengineering, including vegetative stabilization, and beach nourishment.
2. New structures should be located and designed to avoid the need for future shoreline stabilization where feasible. New lots created through sort plat or subdivision should be designed to assure that future development on the created lots will not require structural shoreline stabilization for reasonable development to occur.
3. New or expanded structural shoreline stabilization should be permitted only where demonstrated to be necessary to protect an existing primary structure that is in imminent danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.
4. New or expanded structural shoreline stabilization for ecological enhancement, restoration, or hazardous substance remediation projects should be allowed only

## *[Jurisdiction]* Shoreline Master Program

when non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives.

5. Shoreline stabilization should not interfere with public access to shorelines.
6. New shoreline stabilization should not cause significant impacts to adjacent or down-current properties.
7. Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies. Where erosion threatens existing development, a comprehensive program for shoreline management should be established.
8. Non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shoreline stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.
9. Materials used for construction of shore stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shore features including aesthetic values, and flexibility for future uses.
10. All shore stabilization activities must be designed and constructed to accepted engineering standards.
11. Breakwaters, jetties, groins, and weirs are shoreline stabilization structures, which should be allowed only when necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes, and should be designed to protect critical areas and provide for mitigation.

### B. Regulations

1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
2. Subdivision of land may not create lots that will require shoreline stabilization in order for reasonable development to occur.
3. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
4. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.
5. New structural stabilization measures shall only be allowed for the following instances,

## [Jurisdiction] Shoreline Master Program

and then only when necessity is demonstrated based on criteria included in this section:

- a. When necessary to protect an existing primary structure;
  - b. In support of new non-water-dependent development, including single-family residence;
  - c. In support of new water-dependent development; and
  - d. To protect projects for the restoration of ecological functions or hazardous substance remediation projects.
6. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are permitted only if there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by stream processes or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
7. New structural stabilization for new non-water-dependent development, including single family residences, is permitted only if it can be demonstrated that:
- a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
  - b. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and
  - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as stream processes or waves.
8. New structural stabilization for water-dependent development is permitted only if it can be demonstrated that:
- a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
  - b. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and
  - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
9. New structural stabilization to protect projects for the restoration of ecological functions or hazardous substance remediation projects is permitted only if it can be demonstrated that nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
10. Replacement of an existing shoreline stabilization structure with a similar structure is

[Jurisdiction] Shoreline Master Program

permitted if there is a demonstrated need to protect primary uses or structures or public facilities including roads and bridges, railways, and utility systems, from erosion caused by stream undercutting or wave action. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark. A geotechnical analysis shall be required to document that alternative solutions are not feasible or do not provide sufficient protection.

11. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
12. All new, expanded, or replacement shoreline stabilization shall be permitted only if it can be demonstrated that the proposed measures will not result in a net loss of shoreline ecological functions.
13. For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
14. Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. Hard armoring solutions should not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three years as a result of shoreline erosion in the absence of hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.
15. When structural shoreline stabilization measures are demonstrated to be necessary, the following provisions shall apply:
  - a. The size of stabilization measures shall be limited to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions;
  - b. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses;
  - c. Publicly financed or subsidized shoreline erosion control measures may not restrict appropriate public access to the shoreline except where such access is not feasible because of incompatible uses, safety, security, or harm to ecological

## [Jurisdiction] Shoreline Master Program

functions. See Section 4.4 Public Access. Where feasible, incorporate ecological restoration and public access improvements into the project;

- d. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

16. Breakwaters, jetties, groins, and weirs shall:

- a. Be located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes.
- b. Require a Conditional Use permit; except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.
- c. Be designed to protect critical areas and shall provide for mitigation according to the sequencing defined in WAC 173-26-201(2)(e).

### **5.16 Shoreline habitat enhancement**

#### A. Policies

1. Protect all shorelines of the state so that there is no net loss of ecological functions from both individual permitted development and individual exempt development.
2. In development of the Shoreline Master Program, evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions to ensure no net loss of ecological function. Develop a means to allocate the burden of addressing cumulative effects.
3. Provide, where feasible and desirable, restoration of degraded areas along the shorelines of Kittitas County.

#### B. Regulations

Shoreline habitat enhancement is regulated through Section 4.2 Critical Areas, Section 4.5 Shoreline Vegetation Conservation, and Section 4.6 Water Quality, Stormwater, and Nonpoint Pollution.

### **5.17 Signs**

#### **A. Policies**

1. Signs should be located, designed and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.
2. Sign location and design should not significantly impair shoreline views or public access.

#### **B. Regulations**

1. This Program does not contain specific regulations and standards associated with outdoor signage. Signs may be permitted above the ordinary high water mark in any shoreline environment, subject to the locally adopted sign code, [include citation for code date of adoption].

### **5.18 Transportation**

#### **A. Policies**

1. New public or private transportation facilities should be located inland from the water, preferably out of the shoreline, unless:
  - a. Perpendicular water crossings are required for access to authorized uses consistent with this Program; or
  - b. Facilities are primarily oriented to pedestrian and non-motorized use and provide an opportunity for a substantial number of people to enjoy shoreline areas, and are consistent with policies and regulations in Section 4.1 Ecological Protection and Critical Areas.
2. Transportation facilities should be located and designed to avoid public recreation and access areas and significant natural, historic, archaeological or cultural sites.
3. Parking should only be allowed to support authorized uses where no feasible alternatives exist.
4. Circulation planning should include systems for pedestrian, bicycle and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with this Master Program.
5. Transportation system route planning, acquisition, and design in the shoreline should provide space wherever possible, for compatible multiple uses such as utility lines, pedestrian shore access or view points, or recreational trails.
6. Transportation system plans and projects within shorelines should accommodate non-motorized traffic such as pedestrians, bicyclists, or equestrians. Space for such

## [Jurisdiction] Shoreline Master Program

uses should be encouraged along roads on shorelines and should be considered when rights-of-way are being disposed of or abandoned.

7. Viewpoints, parking, trails and similar improvements should be considered for inclusion in transportation system projects in shoreline areas.
8. Public transportation routes should be located, designed, and maintained to provide safe enjoyment of adjacent shoreline areas.

### B. Regulations

1. Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.
  - a. Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
  - b. Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
  - c. Roadways within the stream corridor shall not hydrologically obstruct, cut-off, or isolate stream corridor features.
2. Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor.
3. Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone.
4. Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.
5. Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment and woody debris.
6. Natural stream channels and drainage ways shall be preserved through the use of bridges for crossings, unless the use of culverts is demonstrated to be the only technically feasible means for crossing. The use of bridges shall be the preferred means to preserve natural streams and drainage ways. Where bridges are not feasible, large, natural bottom culverts, multi-plate pipes and bottomless arches shall be used.
7. The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection 1 and 2 above,

## *[Jurisdiction]* Shoreline Master Program

and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.

8. Where fish, amphibian or other wildlife passage is present, culverts shall be designed and constructed to specifications provided through the Washington State Aquatic Habitat Guidelines or a comparable source of expertise.
9. At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water.
10. Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters.
11. Roads and bridges within floodways must meet the requirements of Section 4.3 Flood Hazard Reduction.
12. Parking is not a preferred shoreline use and shall be allowed only as an accessory use to an authorized primary use when no other feasible alternative exists.
13. Authorized parking areas shall be designed and constructed to minimize the visual impact of parking facilities from the shoreline and to prevent environmental impacts to the shoreline.

### **5.19 Utilities**

#### **A. Policies**

1. New utility facilities should be located so as not to require extensive shoreline protection works.
2. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground, or alongside or under bridges.
3. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

#### **B. Regulations**

1. Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants, pipelines and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities that are water-dependent. The

## *[Jurisdiction]* Shoreline Master Program

provisions in this section do not apply to utility facilities accessory to an existing development or a development under review by this SMP.

2. Non-water dependent utilities should be placed outside of shoreline jurisdiction unless no other feasible option exists.
3. All utility facilities shall be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth. The Director may require the relocation or redesign of proposed utility development in order to ensure no net loss of ecological function.
4. Utility production and processing facilities, such as power plants and sewage or stormwater treatment facilities, or parts of those facilities that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts shall be avoided.
5. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions. Utilities should be located in existing rights of way and corridors whenever feasible.
6. Development of pipelines and cables on shorelines, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance or that cause significant ecological impacts shall not be allowed unless no other feasible option exists. When permitted, those facilities shall include adequate provisions to protect against significant ecological impacts.
7. Restoration of ecological functions shall be a condition of new and expanded non-water-dependent utility facilities. The Director or designee will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of utility development.
8. New solid waste disposal sites and facilities are prohibited. Existing solid waste disposal and transfer facilities in shoreline jurisdiction shall not be added to or substantially reconstructed.
9. New electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or if it is demonstrated that above-ground lines would have a lesser impact. Existing aboveground lines shall be moved underground during normal replacement processes.

## *[Jurisdiction] Shoreline Master Program*

10. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by a route that has the least ecological impact to the shoreline.
11. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shoreline stabilization or flood protection works.
12. Utility production and processing facilities shall be located outside shoreline jurisdiction unless no other feasible option exists. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views, and shall meet no-net-loss standards.
13. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.
14. Filling in shoreline jurisdiction for development of utility facility or line purposes is prohibited. Permitted crossings shall utilize pier or open pile techniques.
15. Power-generating facilities shall require a conditional use permit.
16. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.
17. Telecommunication towers, such as radio and cell phone towers, are specifically prohibited in shoreline jurisdiction.
18. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding and bank erosion that may occur over time. Boring, rather than open trenching, is the preferred method of utility water crossing.
19. Water systems for irrigation or domestic supply are permitted uses if allowable under Washington State water laws and regulations.

### **5.20 *Shoreline bulk and dimensional standards***

#### **A. Policies**

1. Standards for density, setbacks, height, and other provisions should ensure no net loss of shoreline ecological functions and/or processes, and should preserve the existing character of the shoreline, consistent with the purpose of the shoreline environment designations.

## [Jurisdiction] Shoreline Master Program

### B. Regulations

1. Table 2 establishes the minimum dimensional requirements for development. Dimensional standards are measured on the horizontal plane, as applicable. Dimensional standards relating to critical areas are governed by the provisions of Section 4.2 Critical Areas.
2. Bulk and dimensional standards shall be coordinated with locally adopted zoning and development standards to protect the natural character of the shoreline and ensure no net loss of shoreline ecological functions and processes consistent with the purpose of the environment designation. In the event the provisions of this Program conflict with provisions of federal, state, county or city regulations, the provision that is more protective of shoreline resources shall prevail, when consistent with Shoreline Management Act policy.
3. No new structures within the shoreline shall exceed a height of 35 feet above average grade level, except as provided herein.
4. Proposals for new or expanded commercial, multi-family or mixed uses structures exceeding the 35 foot building height limitation shall be processed as a variance as provided for in WAC 173-27-170. In addition to the findings in WAC 173-27-1 70, the following standards shall be met:
  - a. The proposed building shall not obstruct the view of the water for a substantial number of residential buildings located with a view of the adjoining shoreline.
  - b. The applicant shall provide a view analysis identifying the properties and structures located within the view corridor for that shoreline demonstrating the level of obstruction represented by the proposed structure for each affected property.
  - c. The view corridor shall include residential buildings located outside of the shoreline area if it can be clearly demonstrated that the property has significant water views.
  - d. To insure that the analysis is cumulative in nature, it shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the 35 foot height limitation.
  - e. If it can be demonstrated that the proposed structure obstructs less than 30% of the view of the shoreline enjoyed by the structures within the view corridor, the property may be eligible for the height variance. (Example: no residence has more than 30% of their view obstructed by the proposed development).
  - f. The structure shall be located and oriented on the subject property in a manner that diminishes the potential view impact.
  - g. In consideration of the potential view obstruction resulting from the proposed structure, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.
  - h. Extraordinary circumstances are demonstrated and the public interest will be served by the proposed development.

[Jurisdiction] Shoreline Master Program

5. Where permitted above ground, power poles and transmission towers are not subject to height limits but shall not be higher than necessary to address public safety and meet Federal and State standards.
6. The following development activities are not subject to side yard setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline functions and processes, and provided further that they comply with all applicable regulations in Section 4.2 shoreline critical areas regulations and buffer standards within shoreline jurisdiction and local zoning and development standards:
  - a. Those portions of approved water-dependent development that require a location waterward of the ordinary high water mark of rivers and lakes, associated wetlands and/or within their associated buffers.
  - b. Underground utilities.
  - c. Modifications to existing development that are necessary to comply with environmental requirements of any agency, when otherwise consistent with this Program, provided that the Administrator determines that the facility cannot meet the dimensional standard and accomplish the purpose for which it is intended and the facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible, and the modification is in conformance with the provisions of Section 1.11 Prior Development and Nonconformance, for non-conforming development and uses.
  - d. Roads, railways and other essential public facilities that must cross shorelines and are necessary to access approved water-dependent development.
  - e. Stairs and walkways not greater than 5 feet in width nor 18 inches in height above grade, except for railings.
  - f. An essential public facility or public utility where the Administrator determine that no feasible alternative location will accommodate the use.
  - g. Shared moorages shall not be subject to side yard setbacks when located on or adjacent to a property line shared in common by the project proponents.
7. Common line buffer/setback: A common line wetland or riparian buffer/setback may be utilized for the development of a single family dwelling on an undeveloped lot, where the lot is a legal lot of record in place on March 5, 1975 (the date of adoption of this Program) and is located adjacent to existing residential dwelling units on both adjacent shoreline lots. The common line buffer/setback shall be determined by; averaging the buffers/setback, as measured landward from the delineated wetland or riparian boundary, for each of the adjacent residential dwelling units on the shoreline.
  - a. Common line buffers/setbacks shall apply when:
    - i. The width of the undeveloped lot is less than 150 feet;

[Jurisdiction] Shoreline Master Program

- ii. The lot is located within an urban growth area, planned unit development, rural service center or rural recreation zoning district, or is a lot in a cluster development.
- b. Common line buffers/setbacks shall not apply when:
- i. The elevation of adjacent structures on adjacent lots are 15' higher or lower from the natural grade on the vacant center lot;
  - ii. One of the adjacent lots is undeveloped;
  - iii. Either of the adjacent lots has been developed since March 5, 1975 (the date of adoption of this Program).
  - iv. Greater than 250 cubic yards of grade or fill needs to occur in order to accommodate utilizing the common line buffer/setback.
- c. A management and mitigation plan prepared by a qualified professional biologist shall be submitted and approved which demonstrates no net loss of ecological functions for the site in conformance Section 4.2 shoreline critical areas regulations and buffer standards within shoreline jurisdictions.
8. Critical area buffer: See section 4.2 shoreline critical areas regulations and buffer standards within shoreline jurisdiction.
9. Density of development: Residential density standards for urban and rural areas are provided in Table 2. Additional standards which apply to impervious surface area and water quality review may be found in Section 4.6, Water Quality, Stormwater and Nonpoint Pollution.
10. When calculating density for subdivisions, short plats, and multi-family and duplex development shall be calculated based on the total area of the parent parcel including those areas located outside of shoreline jurisdiction. Submerged lands within the boundaries of any waterfront parcel that are located waterward of the ordinary high-water mark shall not be used in density calculations. The density of that portion of the parent parcel located outside of the shoreline jurisdiction shall be limited to the density permitted by the underlying zoning district.
11. Lot frontage: Lot frontage standards are provided in Table 2 below. Lot frontage standards of underlying zoning districts and/or development standards of each jurisdiction may be more restrictive. The most restrictive lot frontage standard shall apply. Lot frontage refers to the minimum lot frontage for any division or exempt parcel transfer, or parcel boundary modification permitted by a local jurisdiction on the shoreline. Lot frontage shall be measure at right angles along a horizontal distance, between the side lot lines, at the most landward point of the ordinary high water mark. Lot frontage requirements are measured in feet.
12. Administrative Setback Reduction: the Administrator shall have the authority to reduce building and side yard setbacks listed in Table 2, on a case-by-case basis for structures which would be placed on existing legal lots of record in place at the time

*[Jurisdiction]* Shoreline Master Program

of adoption of this Program (March 5, 1975). Reductions may be granted where the applicant demonstrates that all of the following criteria and standards have been met:

- a. Administrative setback reductions shall be processed in accordance with the provisions of Chapter 7 of this Program.
- b. The administrative setback reduction must be based upon circumstances where denial of the reduction would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental impact.
- c. The administrative setback reduction is for development that will be located landward of the ordinary high water mark.
- d. The strict application of the setback standard precludes, or significantly interferes with use of the property.
- e. That the hardship described in d) above is the result of a unique condition such as irregular lot shape, size, or natural unique conditions or features and the application of the Master Program, and not for example, from deed restrictions or the applicant's own actions.
- f. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment.
- g. That the setback reduction will not constitute a grant of special privilege not enjoyed by the other properties in the area.
- h. That the reduction requested is the minimum necessary to afford relief.
- i. The maximum setback reduction allowed shall not exceed twenty-five (25) percent, and in no case may be reduced to less than the setback requirement of the underlying zoning district.
- j. Sites which utilize this provision are not eligible for any future setback reductions, except as administered under Section 6.8 Variances, of this Program.

[Jurisdiction] Shoreline Master Program

**5.21 Table 2. Shoreline Use and Dimensional Standards Table**

Shoreline Bulk and Dimensional Standards						
	High Intensity	Urban Conservancy	Shoreline Residential	Rural Conservancy	Natural	Aquatic
Shoreline Setbacks	75'	100'	50'	100'	150'	N/A
Building Setback (measured from critical areas buffer)	15'	15'	15'	15'	15'	N/A
Side Yard Setback, General	20'	20'	20'	20' (1)	20' (1)	N/A(1)
Side Yard Setback, Single Family or Duplex	10'	10'	10'	10'	10'	N/A
Side Yard Setback, Boating Facilities	10'	15'	10'	15'	20'	(2)
Side Yard Setback, Mining	50'	100'	N/A	100'	N/A	N/A
Height	35'	35'	35'	35'	35'	N/A
Lot Frontage	80'	100'	100'	100'	150'	N/A
Rural Density (du= dwelling unit)	N/A	N/A	1 du/ 5 acres	1 du/ 5 acres	1 du/ 10 acres	N/A
Urban Density (du=dwelling unit)	26 du/acre	17du/acre	5 du/ acre	N/A	1 du/ 10 acres	N/A

Notes to Shoreline Bulk and Dimensional Standards Table:

1. Side yard setbacks for Aquaculture shall be 500 feet.
2. Setback is based on upland shoreline environment.

## 6. Administration and Procedures

Sections:

- 6.1 Purpose
- 6.2 Applicability
- 6.3 Exemptions
- 6.4 Types of Permits
- 6.5 Review Authority
- 6.6 Review Criteria
- 6.7 Review Procedures
- 6.8 Appeals
- 6.9 Timing
- 6.10 Revisions
- 6.11 Liberal Construction
- 6.12 Enforcement
- 6.13 Amendments to SMP

### 6.1 **Purpose**

The purpose of this Shoreline Management Program is to provide for the administration and management of development and uses within the shoreline jurisdiction in a manner consistent with RCW 90.58, the Shoreline Management Act, and other rules and guidelines adopted by the department of ecology.

### 6.2 **Applicability**

#### A. Generally.

Except when specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program. No substantial development shall be undertaken on shorelines of the state without first obtaining a permit. See also Section 1.8 Applicability.

#### B. Agricultural activities on agricultural lands.

Nothing in this SMP shall require modification of or limit agricultural activities occurring on agricultural lands. However, new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and development not meeting the definition of agricultural activities is subject to the provisions of this SMP.

#### C. Prior development.

The provisions of WAC 173-27-070 shall apply to substantial development undertaken prior to the effective date of the Act.

D. Nonconformance. [WAC 197-27-080 with modifications for this SMP]

1. Nonconforming use or development is a shoreline use or development which was lawfully constructed or established prior to the passage of this [*Program/code provision*] or any subsequent amendments thereto, but which does not conform to present regulations or standards of the program.
2. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained, repaired, renovated, remodeled, enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses; provided further that a nonconforming structure which is moved any distance must be brought into conformance with this Program and the Act.
3. Nonconforming structures that are expanded, enlarged, or relocated, must obtain a variance or be brought into conformance with this Program and the Act; provided that, nonconforming single family residences and normal appurtenances may be expanded, enlarged, or relocated by conditional use permit if all of the following criteria are met:
  - a. The structure must be located landward of the ordinary high water mark.
  - b. The enlargement, expansion or addition shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into any critical area than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into a critical area or the minimum required side yard setback require a variance.
  - c. The area between the nonconforming structure and the shoreline and/or critical area shall meet the vegetation conservation standards of this Program.
  - d. The remodel or expansion will not cause adverse impacts to shoreline ecological functions and/or processes.
4. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances upon approval of a conditional use permit. Normal appurtenances shall include: a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark
5. A use which is listed as a conditional use but which existed prior to adoption of the Chapter 6 – January 2013 Draft

master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.

6. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
7. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. In addition to the conditional use criteria of subsection 6.6.3, before approving a conditional use for a change in a non-conforming use may be approved only upon a finding that:
  - a. No reasonable alternative conforming use is practical because of the configuration of the structure and/or the property;
  - b. The proposed use will be at least as consistent with the policies and provisions of the Act and this Program and as compatible with the uses in the area as the preexisting use;
  - c. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;
  - d. The structure(s) associated with the nonconforming use shall not be expanded in a manner that increases the extent of the nonconformity, including encroachment into areas such as setbacks, and any critical areas and/or associated buffers where new structures, development or use would not be allowed;
  - e. The vegetation conservation standards of this Program are met (see Section 4.5);
  - f. The change in use, remodel or expansion will not create adverse impacts to shoreline ecological functions and/or processes; and
  - g. Uses which are specifically prohibited or which would thwart the intent of the Act or this Program shall not be authorized
  - h. In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.
8. If a nonconforming development is damaged to an extent not exceeding 75% percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.
9. If a nonagricultural nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection

7 of this section shall be considered a conforming use for purposes of this section.

10. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements, and for which there has been filed a land use application which vested, and remains vested, under Washington State law, prior to the effective date of the Act or this Program, shall be reviewed/developed as previously submitted or approved if permitted by the applicable land use regulations to which it remains vested. Should that vesting have expired, then the undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements, and for which there has been filed a land use application is subject to all provisions of this SMP that are current as of the date of the land use application.
11. *[Placeholder for regulation addressing new development on non-conforming small residential lots. See October 2012 Draft Chapter for regulations being considered for modification]*
12. Redevelopment of nonconforming rights-of-way and associated transportation structures, such as railroad trestles, may be permitted for purposes of facilitating the development of public trails and/or public shoreline access; provided, that such redevelopment shall be otherwise consistent with the provisions of this program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes, except as provided for in subsection 3 of this section.

### **6.3 Permit Exemptions**

#### **1. General Provisions.**

- a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
- b. An exemption from the substantial development permit process is not an exemption from compliance with the act or master program or from any other regulatory requirements.
- c. The burden of proof that a development or use is exempt from the permit process is on the applicant.
- d. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
- e. Conditions may be attached to the approval of exempted developments or uses as necessary to assure consistency of the project with the act and the master program.

#### **2. Developments Exempt from Shoreline Substantial Development Permitting Process.**

Exempt developments include those set forth in WAC 173-27-040(2) and RCW 90.58.030, as amended, generally including:

- a. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state.
- b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.
- c. Construction of the normal protective bulkhead common to single-family residences.
- d. Emergency construction necessary to protect property from damage by the elements.
- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities but excluding feedlots, processing plants, other activities of a commercial nature and alterations of shorelands beyond that which results from normal cultivation;
- f. Construction or modification of navigational aids such as channel markers and anchor buoys;
- g. Construction of a single-family residence;
- h. Construction of a dock, including a community dock, designed for pleasure craft only with a fair market value of ten thousand dollars or less (provided, if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development);
- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
- j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- l. Any project with a certification from the governor pursuant to chapter 80.50 RCW;
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization, when all of the conditions and provisions of WAC 173-27-040(2)(m) are met;
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods recommended under chapter 43.21C RCW;
- o. Watershed restoration projects;
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the conditions and provisions of WAC 173-27-040(2)(p) are met and the project is consistent with RCW 90.58.147;

3. Letter of Exemption. [WAC 173-27-050, New]

- a. General. A letter of exemption is required for all requests for exemption from a shoreline substantial development permit to ensure the development complies with the regulations of this SMP. [Jurisdiction] shall prepare a letter of exemption, addressed to the applicant and the Department, whenever a development is determined to be exempt from the substantial development permit requirements. The letter of exemption must indicate the specific exemption provision from WAC 173-27-040 that is applicable to the development and provide a summary of the consistency of the development with the regulations of this SMP. [New]
- b. Watershed restoration projects. This section applies to a letters of exemption for a watershed restoration project pursuant to WAC 173-27-040 or subject to one or more of the following federal permits: U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899 (generally applicable to any project occurring on or over navigable waters); or Section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applicable to any project which may involve discharge of dredge or fill material to any water or wetland area).
  - i. The letter of exemption must indicate the specific exemption provision from WAC 173-27-040 that is applicable to the development and provide a summary of the consistency of the development with the regulations of this SMP.
  - ii. Watershed restorations projects must be reviewed in an expeditious manner and an exemption decision, together with any conditions, must be issued within forty-five days of receiving all materials necessary to review the request for exemption. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section. [WAC 173-27-050; WAC 173-27-040]

**6.4 Types of Permits**

[WAC 173-27-040]

1. Substantial Development Permits.

All substantial development undertaken on shorelines of the state requires a permit to ensure consistency with the policies of RCW 90.58.020 and the master program.

2. Variances.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where

there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance. [WAC 173-27-170]

### 3. Conditional Uses.

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized with a conditional use permit. Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program. Uses which are specifically prohibited by the master program may not be authorized as conditional uses. [WAC 173-27-160]

## **6.5 Review Authority**

[RCW 90.58.240]

### 1. Director.

The Director or his/her designee shall have the authority to review and approve, deny, or approve with conditions applications for the following:

- a. Letters of exemption.
- b. Shoreline substantial development permits.
- c. Revisions to substantial development permits.
- d. Requests for timing extensions.

### 2. Hearing Examiner. The Hearing Examiner or his/her designee shall have the authority to review and make initial recommendations for approval, denial, or approval with conditions for the following:

- a. Shoreline conditional use permits.
- b. Shoreline variances.

### 3. Board of County Commissioners. The Board of County Commissioners or their designee shall have the authority to:

- a. Acquire lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in concert with other governmental entities, when necessary to achieve implementation of master programs;

- b. Accept grants, contributions, and appropriations from any agency, public or private, or individual for the purposes of the master program;
  - c. Appoint advisory committees to assist in carrying out the purposes of the master program; and
  - d. Contract for professional or technical services required by the master program which cannot be performed by its employees. *[RCW 90.58.240]*
  - e. Adoption of moratoria or other interim official controls necessary to implement SMP, in accordance with RCW 90.58.590 as amended.
4. Department of Ecology. The Department of Ecology shall be responsible for the final approval, denial or approval with conditions for the following: *[WAC 173-27-200]*
- a. Shoreline conditional use permits and revisions to same.
  - b. Shoreline variances and revisions to same.

## **6.6 Review Criteria**

### 1. All Development Permits:

No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines unless overriding considerations of the public interest will be served. *[WAC 173-27-140]*

### 2. Substantial Development Permits:

A substantial development permit shall be granted only when the applicant demonstrates all of the following: *[WAC 173-27-150]*

- a. That the development is consistent with the policies and procedures RCW 90.58 and WAC 173-27;
- b. That the development is consistent with the policies and procedures of the master program; and
- c. That the development has been appropriately conditioned where necessary to assure consistency of the project with the act and the local master program.

### 3. Conditional Use Permits:

Uses which are classified or set forth in the applicable master program as conditional uses or unclassified uses not specifically prohibited may be authorized as a conditional use provided that the applicant demonstrates all of the following: *[WAC 173-27-160]*

- a. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
- b. That the proposed use will not interfere with the normal public use of public shorelines;

- c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
- e. That the public interest suffers no substantial detrimental effect;
- f. That the cumulative impact of additional requests for like actions in the area would not produce substantial adverse effects to the shoreline environment; and
- g. That the proposed use has been appropriately conditioned to prevent undesirable effects of the proposed use and to assure consistency of the project with the act and the local master program.
- h. When converting from one nonconforming use to a different nonconforming use, the applicant must demonstrate that no reasonable alternative conforming use is practical and that the proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use. *[WAC 173-27-080(6)]*

4. Variance:

*[WAC173-27-170]*

- a. General provisions. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. Variances from the use regulations of the master program are prohibited.
- b. Review criteria for all variances. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM) and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:
  - i. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
  - ii. That the hardship is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
  - iii. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
  - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

- v. That the variance requested is the minimum necessary to afford relief;
  - vi. That the public interest will suffer no substantial detrimental effect; and
  - vii. That the cumulative impact of additional requests for variances in the area where similar circumstances exist would not produce substantial adverse effects to the shoreline environment.
- c. Additional review criteria for variances waterward of the OHWM. In addition to the criteria established under subsection b above, applicants for variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM) must also demonstrate:
- i. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property; and
  - ii. That the public rights of navigation and use of the shorelines will not be adversely affected.

## **6.7 Review Procedures**

### 1. Generally.

The general procedural requirements of the county or city shall apply to shoreline permits except where this Chapter is more restrictive or specific, in which case the provision of this Chapter shall apply.

### 2. Complete application.

The Reviewing Official shall issue a determination of completeness, upon finding that the following required information has been submitted with an application for a substantial development, conditional use, or variance permit: *[WAC 173-27-180]*

- a. The name, address and phone number of the applicant.
- b. The name, address and phone number of the applicant's representative, if applicable.
- c. The name, address and phone number of the property owner, if other than the applicant.
- d. Property address and identification of the section, township and range to the nearest quarter, quarter section. Applications for projects located in open water areas away from land shall provide a longitude and latitude location to the nearest minute.
- e. Name of the shoreline (water body) that the site of the proposal is associated with.
- f. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
- g. A general description of the property as it now exists including its physical characteristics and improvements and structures.
- h. A general description of the vicinity of the proposed project including identification

of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

- i. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
  - i. The boundary of the parcel(s) of land upon which the development is proposed.
  - ii. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
  - iii. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
  - iv. A delineation of all wetland areas that will be altered or used as a part of the development.
  - v. A general indication of the character of vegetation found on the site.
  - vi. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
  - vii. Where applicable, a landscaping plan for the project.
  - viii. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
  - ix. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
  - x. Quantity, composition and destination of any excavated or dredged material.
  - xi. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
  - xii. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
  - xiii. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

### 3. Concurrent submittals.

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.

### 4. Notice.

*[WAC 173-27-110]*

- a. Required. The Reviewing Official shall notify the public, the Department of Ecology, other agencies with jurisdiction as well as individuals and organizations that have requested notice in writing of applications for a shoreline management substantial development, conditional use, or variance permit.
- b. Timing. Notice of application shall be provided within fourteen days after the determination of completeness. When an open record hearing is required. If an open record pre-decision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.
- c. Contents. The notice shall include:
  - i. The date of application, the date of the notice of completion for the application, and the date of the notice of application;
  - ii. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested;
  - iii. The identification of other permits not included in the application to the extent known by the local government;
  - iv. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;
  - v. A statement of the public comment period, which shall be not less than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;
  - vi. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;
  - vii. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and
  - viii. Any other information determined appropriate by the local government.

- d. Method. The notification system shall assure that notice to the general public and property owners in the vicinity of such application is given by at least one of the following methods:
    - i. Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the development is proposed; of
    - ii. Posting of the notice in a conspicuous manner on the property upon which the project is to be undertaken.
5. Review and decision. The appropriate review authority identified in Section 5 shall review applications for compliance with review criteria in Section 6 and either approve, deny, or approve with conditions. In the case of shoreline conditional use permits and variances, the decision shall serve as a recommendation to the Department of Ecology, which is responsible for the final decision on shoreline conditional use permits and variances.
6. Submittal to Department of Ecology [WAC 173-27-130]
- a. Required submittal. All applications for a permit or a permit revision shall be submitted to the Department of Ecology upon a final decision by local government, pursuant to WAC 173-27-130.
  - b. Appeals. 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 the Department of Ecology.
  - c. Modified project. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the local government 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 (3) of this section to the department for completion of the file on the permit. The purpose of this provision is to assure that the local and department files on the permit are complete and accurate and not to provide a new opportunity for appeal of the permit.
  - d. Conditional use permits and variances. Shoreline conditional use permits and variances shall be transmitted to the Department of Ecology for final approval, denial, or approval with conditions.

## **6.8 Appeals**

*[RCW 90.58.180]*

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing of the decision, pursuant to RCW 90.58.180.

## **6.9 Timing**

*[WAC 173-27-090 and 173-27-190]*

1. Applicability. The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit.
2. Effective Date. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6).
3. Commencement. Construction activities associated with a shoreline permit are not authorized and shall not begin until twenty-one days from the date of filing or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated. Construction activities, or the use or activity where no construction activities are involved, shall be commenced within two years of the effective date of a substantial development permit. *[WAC 173-27-190]*
4. Expiration. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit, unless extended in accordance with the provisions below.
5. Extension. The Review Official may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the shoreline permit and to the Department of Ecology.
6. Exclusions. The time periods in this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development, including all reasonably related administrative or legal actions on any such permits or approvals.
7. Flexibility. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and RCW 90.58, the Department may adopt different time limits from those set forth in this subsection as part of action on a substantial development permit.

## **6.10 Revisions**

*[WAC 173-27-100]*

1. Applicability.
  - a. Substantive changes. 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 master program and/or the policies and provisions of the Shoreline Management Act (RCW 90.58). Changes which are not substantive in effect do not require approval of a revision.
  - b. Substantial development. If the proposed change, or the sum of the proposed revisions and any previously approved revisions, constitutes substantial development then the applicant is not eligible for the revision process and shall be required to apply for a new permit.
2. Submittal requirements. An applicant seeking to revise a permit shall submit detailed plans and text describing the proposed changes to the Review Official.
3. Review criteria and findings. The Review Official may approve a revision when the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act. At a minimum, the Review Official must find:
  - a. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
  - b. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;
  - c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
  - d. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
  - e. The use authorized pursuant to the original permit is not changed; and
  - f. No adverse environmental impact will be caused by the project revision
4. Timing and limitations. Revisions to permits may be authorized after original permit authorization has expired. However, such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a shoreline permit for the development or change. This subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
5. Notice. Notice of the revision approval shall be given to parties of record on the original permit and to the Department of Ecology.
6. Effective date. The revised permit is effective immediately upon final decision by the

Review Official or, when appropriate, upon final action by the Department of Ecology.

## 7. Appeals.

- a. Timing. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of receipt of the local government's action on a substantial development permit revision by the Department of Ecology or, for revisions to conditional use permits or variances, the date the Department of Ecology's final decision is transmitted to local government and the applicant.
- b. Grounds. Appeals shall be based only upon contentions of noncompliance with the provisions of WAC 173-27-100.
- c. Construction during appeal period. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline.
- d. Impact of appeal on original permit. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

### **6.11 Liberal construction**

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this Program shall be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted, respectively. In the event the provisions of this Program conflict with provisions of federal, state, county or city regulations, the provision that is the most protective of shoreline resources shall prevail, when consistent with policies set out in the SMA.

### **6.12 Enforcement**

1. Applicability. Enforcement action by the department or local government may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action. [WAC 173-27-260]
2. Order to cease and desist. [WAC 173-27-270]
  - a. Authority. Local government shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or this master program.
  - b. Contents. The order shall set forth:
    - i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
    - ii. A notice that the violation or the potential violation cease and desist or, in

appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.

- c. Effective date. The cease and desist order shall become effective immediately upon receipt by the person to whom the order is directed.
- d. Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

3. Penalties. [WAC 173-27-280]

- a. Applicability. A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a penalty.
- b. Authority. The county or city shall bring such declaratory injunctive or other proceeding as may be necessary to assure that no uses be made of the shorelines of the state located in Kittitas County contrary to the provisions of this program or of RCW 90.58. [language from Douglas County]
- c. Shared responsibility. The county and cities shall enforce RCW 90.58.210 through 90.58.230 and WAC 173-27, as amended, in cooperation with the State. [language from Douglas County]

**6.13 Amendments to Master Program**

- 1. Applicability. This section applies to comprehensive shoreline master program updates as well as limited shoreline master program amendments that may be necessary from time to time to comply with state and federal laws and implementing rules, address newly annexed shorelines, improve consistency with the act's goals and policies, or correct errors or omissions.
- 2. Initiation of amendments.
  - a. By elected or appointed officials. The board of county commissioners, city council, or planning commission may initiate an amendment to this Program according to the procedures prescribed in WAC 173-26-100.
  - b. By the public. Any person may petition the city council, board of county commissioners, or planning commission to amend this Program. Petitions shall specify the changes requested and any and all reasons therefore. The board of county commissioners, city council or planning commission may schedule a public hearing on said petition(s) if it deems the proposed amendment would make this Program more consistent with the Act or more equitable in its application to persons or property due to changed conditions in an area.
  - c. As the result of annual review. The Director shall submit an annual report reviewing the effectiveness of the Program in achieving its stated purpose, goals, and objectives as well as any proposed amendments deemed necessary to

increase its effectiveness or equity. If said report contains proposed amendments, the city council or board of commissioners may schedule a public hearing to consider such matter.

### 3. Procedures.

- a. Generally. All master program amendments shall be processed pursuant to the procedural requirements of WAC 173-26-010 through 173-26-160 and RCW 90.58.090.
- b. Initiation of amendments.
  - i. The board of county commissioners, city council, or planning commission may initiate an amendment to this Program according to the procedures prescribed in WAC 173-26-100.
  - ii. Any person may petition the city council, board of county commissioners, or planning commission to amend this Program. Petitions shall specify the changes requested and any and all reasons therefore. The board of county commissioners, city council or planning commission may schedule a public hearing on said petition(s) if it deems the proposed amendment would make this Program more consistent with the Act or more equitable in its application to persons or property due to changed conditions in an area.
  - iii. The Administrator shall submit an annual report reviewing the effectiveness of the Program in achieving its stated purpose, goals, and objectives as well as any proposed amendments deemed necessary to increase its effectiveness or equity. If said report contains proposed amendments, the city council or board of commissioners may schedule a public hearing to consider such matter.
- c. Notice. Notice of a public hearing shall be published in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include: a reference to the authority under which the action is proposed; a statement or summary of the proposed changes to the master program; the date, time and location of the hearing; the manner in which interested persons may present their views; and reference to the availability of the draft proposal for public inspection at the local government office.
- d. Consultations.
  - i. The local government shall consult with and solicit the comments of any persons, groups, federal, state, regional, or local agency, and tribes having interests or responsibilities relating to the shorelines or any special expertise with respect to any environmental impact.
  - ii. Adjacent local governments with jurisdiction over common shorelines of that state shall be included in the consultation process.
  - iii. The local government shall solicit comments on the draft proposal from the Department of Ecology and the Department of Community, Trade, and Economic Development at least sixty days prior to final local approval.

- e. Coordination. Where amendments are proposed to a county or regional master program, the county shall coordinate with the participating jurisdictions and verify concurrence with or denial of the proposal. The amendments of concurring jurisdictions shall be processed together.
- f. Hearing. The local government shall conduct at least one public hearing to consider the draft proposal.
- g. Department approval. Department of Ecology approval is required pursuant to RCW 90.58.090.

DRAFT

## 7. Definitions

The terms used throughout this Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Definitions established by WAC 173 and have been incorporated herein and should these definitions in the WAC be amended, the most current WAC definition shall apply.

1. **"Act"** means the Washington State Shoreline Management Act, chapter 90.58 RCW.
2. **"Adoption by rule"** means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.
3. **"Agricultural activities"** means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;
4. **"Agricultural products"** includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.
5. **"Agricultural equipment"** and **"agricultural facilities"** includes, but is not limited to:
  - a. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
  - b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

[Jurisdiction] Shoreline Master Program

- c. Farm residences and associated equipment, lands, and facilities; and
  - d. Roadside stands and on-farm markets for marketing fruit or vegetables; and
6. "**Agricultural land**" means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.
  7. "**Alluvial fan**" or "**Alluvial fan hazard area**" is a low, outspread, relatively flat to gentle sloping features deposited by a stream at the transitional area between valley floodplains and steep mountain slopes. Channel pattern is highly variable, often dependent on substrate size and age of the landform. Channels may change course frequently, resulting in a multibranching stream network. Channels can also be deeply incised within highly erodible alluvial material.
  8. "**Amendment**" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.
  9. "**Approval**" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.
  10. "**Aquaculture**" means 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.
  11. "**Average grade level**" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.
  12. "**Avulsion**" means a sudden cutting off or separation of land by a flood breaking through a meander or by a sudden change in current whereby the stream deserts its old channel for a new one.
  13. "**Bulkhead**" means a wall-like, shoreline armoring structure such as a revetment that is placed parallel to the shoreline (at or near the OHWM) primarily for retaining uplands, stabilizing shoreline and fills, an prone to sliding or sheet erosion and to protect uplands and fills from erosion by waves or currents.

[Jurisdiction] Shoreline Master Program

14. "**Channel migration zone (CMZ)**" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
15. "**Conditional Use**" means a use, development, or substantial development which is classified as a conditional use or is not classified within the master program.
16. "**Critical areas**" includes the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.
17. "**Critical aquifer recharge area (CARA)**" means an area designated by WAC 365-190-100 that is determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(3).
18. "**Comprehensive master program update**" means a master program that fully achieves the procedural and substantive requirements of the department's shoreline master program guidelines effective January 17, 2004, as now or hereafter amended.
19. "**Comprehensive plan**" means the guiding policy document for all land use and development regulations in a defined area and for regional services throughout the area including transit, parks, trails, utilities, environment and natural resource protection, cultural resource protection and providing open space.
20. "**Dam**" means a barrier or controlling and appurtenant works across a stream or river that does or can confine, impound or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.
21. "**Degradation**" as it pertains to riverine morphology means the lowering of a streambed due to such factors as increased scouring.
22. "**Department**" means the state department of ecology.
23. "**Development**" means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling; removal of any sand, gravel or minerals; bulkheading; driving of pilings; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at any stage state of water level.

[Jurisdiction] Shoreline Master Program

24. "**Development regulations**" means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.
25. "**Document of record**" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.
26. "**Drift cell**," "**drift sector**," or "**littoral cell**" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.
27. "**Ecological functions**" or "**shoreline functions**" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201 (2)(c).
28. "**Ecological restoration**" see definition for "restore."
29. "**Ecosystem-wide processes**" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
30. "**Environmental designation**" means a categorical classification of a land parcel that reflects the biological and physical character of the shoreline, as well as the type of development that has or should take place in a given area
31. "**Exempt**" developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), and 90.58.515 which are not required to obtain a substantial development permit but which must otherwise comply with applicable provisions of the act and the local master program.
32. "**Extreme low tide**" means the lowest line on the land reached by a receding tide.
33. "**Fair market value**" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found

labor, equipment or materials.

34. "**Feasible**" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
- a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results.
  - b. The action provides a reasonable likelihood of achieving its intended purpose; and
  - c. The action does not physically preclude achieving the project's primary intended legal use.
  - d. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.
35. "**Fill**" means any solid or semi-solid material that when placed, changes the grade or elevation of the receiving site, including the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
36. "**Fish and wildlife habitat area**" means Fish and Wildlife Habitat Conservation Areas (FWHCA) are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species.
37. "**Flood plain**" is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.
38. "**Floodway**" means the area, as identified in a master program, that either:
- a. Has been established in federal emergency management agency flood insurance rate maps or floodway maps (defined as the channel of a river or other watercourse and the adjacent land areas that must be reserved in order

[Jurisdiction] Shoreline Master Program

- to discharge the base flood (100 year flood) without cumulatively increasing water surface elevation more than a designated height of one foot); or
- b. Consists of those portions 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 flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.
39. "**Frequently flooded areas**" means lands in the floodplain subject to a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater and those lands that provide important flood storage, conveyance and attenuation functions. These areas include, but are not limited to, streams, rivers, lakes, wetlands, and areas where high groundwater forms ponds on the ground surface. As designated and classified determined by a local government in accordance with WAC 365-190-110. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.
40. "**Geotechnical report**" or "**geotechnical analysis**" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts 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.
41. "**Grading**" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
42. "**Groundwater**" means all the water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

[Jurisdiction] Shoreline Master Program

43. "**Guidelines**" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.
44. "**Height**" is 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 master program specifically requires that such appurtenances be included: Provided further, That temporary construction equipment is excluded in this calculation.
45. "**Hydric soil**" means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described WAC 173-22-035.
46. "**Lake**" means a body of standing water in a depression of land or expanded part of a stream, of 20 acres or greater in total surface area, including reservoirs. A lake is bounded by the OHWM, or where a stream enters the lake, the extension of the lake's OHWM within the stream.
47. "**Littoral cell**" see definition for "drift cell."
48. "**Limited master program amendment**" means a master program amendment that addresses specific procedural and/or substantive topics and which is not intended to meet the complete requirements of a comprehensive master program update.
49. "**Local government**" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.
50. "**Marine**" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.
51. "**Master program**" or "**shoreline master program**" shall mean the comprehensive use plan for a described area, the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020 and the applicable guidelines. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

[Jurisdiction] Shoreline Master Program

52. "**May**" means the action is acceptable, provided it conforms to the provisions of this chapter.
53. "**Mineral Prospecting**" means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment, conducted according to the provisions of WAC 220-110-200 through 220-110-206.
54. "**Mining**" means the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Mining does not include mineral prospecting conducted according to WAC 220-110-200 through 220-110-206.
55. "**Must**" means a mandate; the action is required.
56. "**Natural or existing topography**" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.
57. "**Non-water-oriented uses**" means those uses that are not water-dependent, water-related, or water-enjoyment.
58. "**Ordinary high water mark**" on all lakes, streams, and tidal water is 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 a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water.
59. "**Party of record**" includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;
60. "**Permit**" means any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.
61. "**Public interest**" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.
62. "**Priority habitat**" means a habitat type with a unique or significant value to one or

[Jurisdiction] Shoreline Master Program

more species. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife densities; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridors; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish beds. A priority habitat may be described by its 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 (WAC 173-26-020(28)).

63. "**Priority species**" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed in WAC 173-26-020.
64. "**Provisions**" means policies, regulations, standards, guideline criteria or environment designations.
65. "**Restore,**" "**restoration**" or "**ecological restoration**" means 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.
66. "**Riverine erosion hazard areas**" are located within the lateral extent of likely watercourse channel movement due to bank destabilization and erosion, rapid incision, and shifts in location of watercourse channels. Riverine erosion hazard areas are also referred to as channel migration zones (CMZs).
67. "**Shall**" means a mandate; the action must be done.
68. "**Shorelands**" or "**shoreland areas**" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.
- A. Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.

[Jurisdiction] Shoreline Master Program

- B. Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to non-forest land use, on lands subject to the provisions of this subsection (2)(d)(ii) are not subject to additional regulations under this chapter.
69. "**Shoreline areas**" and "**shoreline jurisdiction**" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
70. "**Shoreline functions**" see definition for "ecological functions."
71. "**Shoreline master program**" see definition for "master program."
72. "**Shoreline modifications**" means any human activity that changes the structure, hydrology, habitat, and/or functions of a shoreline. Bulkheads, piers, docks, shoreline stabilization systems, clearing and grading, application of chemicals, berms, and dikes are all examples of shoreline modifications.
73. "**Shorelines**" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.
74. "**Shorelines of statewide significance**" means the shorelines identified in RCW 90.58.030 which because of their elevated status require the optimum implementation of the Shoreline Management Act's policies, this includes all rivers with a mean annual flow of greater than 200cfs and lakes with surface areas of 1000 acres or more.
75. "**Shorelines of the state**" are the total of all "shorelines" and "shorelines of statewide significance" within the state.
76. "**Should**" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.
77. "**Significant vegetation removal**" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts 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.

[Jurisdiction] Shoreline Master Program

78. "**State master program**" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department of ecology.
79. "**Structure**" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.
80. "**Substantially degrade**" means to cause significant ecological impact.
81. "**Substantial development**" as defined by RCW 90.58.030(3)(e).
82. "**Transmit**" means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.
83. "**Water-dependent use**" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.
84. "**Water-enjoyment use**" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
85. "**Water-oriented use**" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
86. "**Water quality**" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
87. "**Water-related use**" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

[Jurisdiction] Shoreline Master Program

- a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
  - b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.
88. **"Water system"** means any system providing water intended for, or used for, human consumption, domestic uses, or commercial businesses. It includes, but is not limited to, the source, purification, storage, transmission, pumping, and distribution facilities.
89. **"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-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.
90. **"Variance"** is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.
91. **"Vessel"** includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

## Acronym List

BMP Best Management Practice

BOD Biological Oxygen Demand

CRMP Cultural Resource Management Plan DNR Department of Natural Resources DOE Department of Ecology

ESA Endangered Species Act

FDA Food and Drug Administration

FEMA Federal Emergency Management Agency FERC Federal Energy Regulatory Commission GMA Growth Management Act

HPA Hydraulic Project Approval

IBC International Building Code

LID Low Impact Development

NMFS National Marine Fisheries Service NRCS Natural Resource Conservation Service OHWM Ordinary High Water Mark

PUD Public Utility District

RCW Revised Code of Washington

SEPA State Environmental Policy Act

SMA Shoreline Management Act

SMP Shoreline Management Program

TESC Temporary Erosion and Sediment Control WAC Washington Administrative Code

WDFW Washington Department of Fish and Wildlife

## **Appendices**

- A. Shoreline Environment Designation Maps [Attached Separately]***
- B. Shoreline Environment Designation Descriptions [Attached Separately]***
- C. Community Visioning Report [Attached Separately]***
- D. Inventory and Characterization Report [Forthcoming]***
- E. Cumulative Impacts Analysis [Forthcoming]***
- F. Restoration Plan [Forthcoming]***
- G. Monitoring Plan [Forthcoming]***

**DRAFT**