



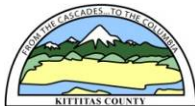
# [Jurisdiction Name] Shoreline Master Program

Adopting Resolution [Resolution No.]

Effective Date: [DATE]

DRAFT

[Insert appropriate logo:



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# [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

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[Effective Date]

This document should be cited as: Kittitas County/Van Ness Feldman GordonDerr 2012. Draft Shoreline Master Program. Kittitas County Regional Shoreline Master Program Update. October 2012. Seattle, WA.

## **A Note to Readers of the October 2012 Draft:**

This document is a working draft for review and comment by the public and advisory committees. Revisions to this draft will be made based on input received through the community visioning process, as well as comments from the general public and advisory committees and further analysis by the participating jurisdictions.

Future review drafts will be circulated for public review and comment.

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# [Jurisdiction]

## Shoreline Master Program

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## 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
- 1.5 Short title
- 1.6 Public involvement process, advisory committee and agency coordination
- 1.7 Relationship to other plans
- 1.8 Applicability
- 1.9 Governing principles
- 1.10 References to plans, regulations or information sources
- 1.11 Liberal construction
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- 1.14 Effective date

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

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;



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- Upland areas called shorelands that extend 200 feet landward, in all directions 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 further clarifies 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":

*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 (2012). 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 maps is included in Chapter 9 that depict the jurisdictional areas. Those removed are included at the end of Appendix A.

### **1.3 Purpose and intent**

The purpose and intent of this SMP are to:

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 Douglas County and its applicable jurisdictions;

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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 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*

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*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 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 involving 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). Through their role as project lead, the County prepared a public participation plan that identified specific objectives, key stakeholders (planning commissions, citizens, property owners, local and state agencies, cities and the county, tribal governments, etc.), and that established timelines for public participation activities.

### **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 (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 the restoration plans; and

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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.

### **Shoreline Visioning Process**

To provide context, the process of developing the regional SMP began with community-wide visioning sessions to elicit citizen input on what the communities want the shoreline areas to look like 5-10 years from now. Citizens and interest groups were asked to provide input on issues such as public access, water-related and water-dependent uses, recreation, restoration activities and more. Visioning meetings were held in Ellensburg and Cle Elum.

### **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 project.

### **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 data inventory and materials collection, shoreline characterization, shoreline 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.

### **Open Public Forums and Public Meeting Events**

Open public forms, i.e. public meetings events, including open houses and a workshop,

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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) and September 2012 (community visioning workshop). Additional targeted outreach was conducted by County staff by attending a regular meeting of the following groups: Master Buildings Associate, Kiwanis of Ellensburg, and Kittitas Field and Stream Club.

A summary report of the public input from the open public forums was organized into a Community Visioning Report [Appendix?] which was used to develop goals, policies, and use regulations for the independent SMPs for each jurisdiction.

### **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, to the public utility districts of Douglas, Chelan and Grant counties, and to the Colville Confederated Tribes 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))*

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

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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.*

*[Placeholder: Insert information on applicable local comprehensive plan]*

*Other recent or on-going planning efforts-*

*[Placeholder: Discuss other projects? Fish recovery planning? County's flood plain work? Others?]*

### **1.7 Applicability**

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

### **1.8 Governing principles**

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:

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.

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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 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 B.
  - 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.
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

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extent consistent with the policies of the Act and these governing principles, and modify this Program to reflect changing circumstances.

### **1.9 References to plans, regulations or information sources**

1. 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.
2. General discussion of the comprehensive plan and development regulations within this program refer to the most current editions.

*[Note: this section may need revision after it is determined how plans and codes will be referenced or incorporated into the SMP]*

### **1.10 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.

### **1.11 Prior development and nonconformance**

#### **Prior Development**

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

*Nonconforming use and development standards.*

*[Provisions taken from WAC 173-27-080 with revisions based on Whatcom County WCC 23.50.07 (including §3, 7, 11, and 12). Damage percentages and timeframes for reconstruction found below in §8 are the minimum allowed by WAC 173-27-080(8). This section may need revision for consistency with local codes]*

4. Nonconforming use or development is a shoreline use or development which was lawfully constructed or established prior to the initial adoption of the Program (March 5, 1975) or any subsequent amendments thereto, but which does not conform to present regulations or standards of the program.
5. 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



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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.

6. Nonconforming structures that are expanded or enlarged must obtain a variance or be brought into conformance with this Program and the Act; provided that, nonconforming single family residences may be approved 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.
7. 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
8. A use which is listed as a conditional use but which existed prior to adoption of the 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.

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9. 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.
10. 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 SMP \_\_\_\_, before approving a conditional use for a change in 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;
  - 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.
11. 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

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years of permit issuance.

12. 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.
13. 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 prior to the effective date of the Act or this Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the this Program and the Act.
14. New single family development on nonconforming lots consisting of property under contiguous ownership and not subject to landslide hazard areas, alluvial fan hazard areas, or riverine erosion hazard areas or associated buffers, as provided in \_\_\_\_, may be allowed without a variance in accordance with the following criteria:
  - a. Nonconforming lots with a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines or critical areas shall comply with the provisions of this program. The “building area” means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping.
  - b. Nonconforming lots that do not meet the requirement of subsection 11.a of this section shall provide the maximum setback and buffer dimension feasible while providing for a building area of not more than 2,500 square feet on the portion of the lot farthest from the required setback or buffer; provided, that consideration shall be given to view impacts.
  - c. The area between the structure and the shoreline and/or critical area shall comply with the vegetation conservation standards of this Program.
  - d. Development may not take place waterward of the ordinary high water mark.
  - e. Facilities such as a conventional drainfield system may be allowed within critical areas or their buffers, except wetlands and buffers, outside of the building area specified above.
15. Redevelopment of nonconforming rights-of-way and associated transportation

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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.

**1.12 Severability**

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.

**1.13 Effective date**

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

## 2. Goals and objectives

***[Note for October 2012 Draft: Consistent with the Department of Ecology guidelines, this chapter will contain goals and objective for several master program elements. In this chapter, the goals from the 1975 Kittitas County SMP is included along with preliminary draft goals and objectives based on those used for a similar Washington State jurisdiction. No goal from the 1975 SMP is provided for flood hazard prevention, because this element was not addressed in the 1975 SMP.]***

Sections:

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

### ***2.1 Economic development element*** **1975 Kittitas County SMP Goal:**

*It is a goal of our County that commercial development locate inland from designated flood plain and shoreline areas unless that development is particularly dependent upon a shoreline location and is consistent with the long range needs of the public.*

### **Proposed Goal and Objectives:**

#### **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. Opportunities exist to enhance and develop water-dependent, water-related, and water-enjoyment uses; however future development must minimize development in flood prone areas and channel migration zones. Support uses that would contribute to the region economy while maintaining the qualities and functions of the shorelines, including floodplains.

#### **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

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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.

### **2.2 Public access element**

#### **1975 Kittitas County SMP Goal:**

*Shoreline dependent recreational activities are of significant importance to the citizens of Kittitas County. A public access system should facilitate movement to public shoreline areas without compromising the natural features of the shoreline. Public access to public areas shall in no way limit or lessen any private land owner's right to prevent trespassing.*

*It is a goal, therefore, of our County to develop a network of well-planned and maintained public access areas located on publicly owned shorelines, to purchase additional shoreline property when feasible and to encourage a provision of public access in all future public land shoreline development. Intrusions created by such public access should not have detrimental effects on fragile natural features, endanger life, or infringe upon the rights of private property owners.*

#### **Proposed Goals and Objectives:**

##### 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. Provide the public opportunities to enjoy the physical and aesthetic qualities, including views, of shorelines of the state consistent with the other goals and policies of this Program.

##### 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.

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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.

### **2.3 Circulation element**

#### **1975 Kittitas County SMP Goal:**

*It is a goal of our County to encourage a transportation network capable of delivering people, goods, and services, which will result in minimum disruption of the natural system of our shorelines.*

#### **Proposed Goals and Objectives:**

##### Goal

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

##### 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.

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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.

### **2.4 Recreation element**

#### **1975 Kittitas County SMP Goal:**

*It is a goal of our County to encourage sound management of renewable shoreline resources and that non-renewable shoreline resources be preserved to the greatest extent feasible.*

#### **Proposed Goal and Objectives:**

##### Goal

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

##### 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.
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.

### **2.5 Shoreline use element**

#### **1975 Kittitas County SMP Goal:**

*Kittitas County is characterized by four major shoreline uses: (1) irrigated agriculture; (2) range; (3) forest and wild lands; (4) recreational use. A continuation of such uses*



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*should be encouraged.*

*Alternative uses may occur which are compatible with the specific Environments of this Act, provided that they are compatible to the physical characteristics of any particular site. These concepts are intended to promote a pattern of shoreline uses which will minimize conflict, preserve a high quality environment, and leave open the greatest number of options for future generations of shoreline users.*

### **Proposed Goals and Objectives:**

#### 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.

#### Objectives

1. Shoreline use preference should be given to water-dependent and single family residential uses 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

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stormwater runoff and when required provide appropriate treatment consistent with state and local standards.

### **2.6 Conservation element**

#### **1975 Kittitas County SMP Goal:**

*It is a goal of our County to encourage sound management of renewable shoreline resources and that non-renewable shoreline resources be preserved to the greatest extent feasible.*

#### **Proposed Goals and Objectives:**

##### 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.

##### 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 the appendices.

### **2.7 Historical/cultural element**

#### **1975 Kittitas County SMP Goal:**

*It is a goal of our County to protect and restore areas and sites having historical,*

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*cultural, or educational importance without infringing upon the private property owners.*

**Proposed Goals and Objectives:**

Goal:

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

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  
1975 Kittitas County SMP Goal:**

[None]

**Proposed Goals and Objectives:**

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.

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

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ecological functions associated with lakes, rivers and streams.

4. Encourage bio-stabilization methods for erosion damage repair whenever possible.

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### 3. Environment designations and management policies

***[Note to Reader of October 2012 Draft: This draft chapter contains purpose statements, management policies, and designation criteria for the six environmental designations included in the Department of Ecology's guidelines. Different or additional designations may or may not be included in the final SMPs. Management policies were taken from Ecology's guidelines at WAC 173-26-211 with minor text modifications in some cases. A placeholder for the Use Table will be filled in a later version of this SMP.]***

Sections:

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

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.*

#### **3.1 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.

#### **3.2 Environment designations**

The following environment designations and management policies implement and are consistent with WAC 173-26-211, Environmental Designation System, and the comprehensive plan. Each environment designation contains a purpose statement, designation criteria and a management policies component. The shoreline environment

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designation system includes seven environments: high-intensity, shoreline residential, urban conservancy, rural conservancy, natural, channel migration zone, 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.

### **3.3 Natural environment**

#### 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.

#### 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:
  - Commercial uses.
  - Industrial uses.
  - Non-water-oriented recreation.
  - 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.

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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 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.

### Designation Criteria

A natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:

1. The shoreline is ecologically-intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
3. 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.

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.

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.

Areas with significant existing agriculture lands should not be included in the natural designation, except where the existing agricultural operations involve

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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.

### **3.4 Rural conservancy environment**

#### 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.

#### 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 in a manner consistent with the environment policies and the provisions of WAC 173-26-241(h) and 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.



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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.
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.

### Designation Criteria

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:

1. 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;
2. The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;
3. 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;
4. The shoreline is of high recreational value or with unique historic or cultural resources; or
5. The shoreline has low-intensity water-dependent uses.
6. 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.
7. “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.

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8. 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.

### **3.5 Urban conservancy environment**

#### 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.

#### 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.

#### Designation Criteria

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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 characteristics apply:

1. They are suitable for water-related or water-enjoyment uses;
2. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
3. They have potential for ecological restoration;
4. They retain important ecological functions, even though partially developed; or
5. They have the potential for development that is compatible with ecological restoration.
6. 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.

### **3.6 Shoreline residential environment**

#### 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.

#### 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.

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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.

### Designation criteria

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," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multi-family residential development or are planned and platted for residential development.

### **3.7 High-intensity environment**

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.

### 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 nonwater-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

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include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

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.

### 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.

### **3.8 Aquatic environment**

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.

### 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.
6. Shoreline uses and modifications should be designed and managed to prevent

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degradation of water quality and alteration of natural hydrographic conditions.

Designation Criteria

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

**3.9 Table 1. Use Table**

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

*[Placeholder for Use Table]*

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## 4. General policies and regulations

***[Note to reader of October 2012 Draft: Policies and regulations in this chapter will be drafted based on public input through the community visioning process and meetings with the Citizen Advisory Committee, consistent with the principles and standards provided in WAC 176-26-221 “General master program provisions.”]***

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, storm water, and nonpoint pollution

### **4.1 Archaeological and historical resources**

Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office 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.

[Placeholder for policies and regulations related to archaeological and historical resources]

### **4.2 Critical areas**

Applicability

Pursuant to the provisions of RCW 90.58.090(4) this Program provides for management of critical areas designated by the GMA located within the shorelines jurisdiction with policies and regulations that provide a level of protection to critical areas within the shoreline area that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

[Placeholder for policies and regulations related to critical areas]

### **4.3 Flood hazard reduction**

Applicability

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 storm water management programs; as well as structural measures such

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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).

[Placeholder for policies and regulations related to flood hazard reduction]

### **4.4 Public Access**

#### Applicability

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.

[Placeholder for policies and regulations related to public access]

### **4.5 Shoreline vegetation conservation**

#### Applicability

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

[Placeholder for policies and regulations related to shoreline vegetation conservation]

### **4.6 Water quality, storm water, and nonpoint pollution**

#### Applicability

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

[Placeholder for policies and regulations related to water quality, storm water, and nonpoint pollution]



## 5. Shoreline use and modification policies and regulations

***[Note to Reader of October 2012 Draft: These draft policies and regulations are based on those of a similar Washington State jurisdiction and may be revised upon further analysis. Future drafts will include additional information on the applicability of this chapter to development activities in existing agricultural areas, such as construction of a new building. Future drafts will also include policies and regulations for following uses and modifications: breakwaters, jetties, groins, and weirs; forest practices; and shoreline habitat enhancement. Sign policies and regulations may be removed in favor of applying local sign codes.]***

Sections:

- 5.1 Agriculture
- 5.2 Aquaculture
- 5.3 Boating facilities and marinas
- 5.4 Breakwaters, jetties, groins, and weirs
- 5.5 Commercial development
- 5.6 Dredging and dredge material disposal
- 5.7 Industrial and port development
- 5.8 Instream structures
- 5.9 Filling, grading and excavation
- 5.10 Forest practices (non-harvest)
- 5.11 Mining
- 5.12 Piers and docks
- 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 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. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use.

### **5.1 Agriculture** Policies

1. Recognize the importance of agriculture in Kittitas County and support its continued economic viability.

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2. Appropriate vegetation management and Natural Resources Conservation Service conservation practices should be used to avoid and minimize water quality impacts from agricultural activities.
3. 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.
4. Agricultural operations should comply with control guidelines prepared by the U.S. Environmental Protection Agency and state and local agencies for regulating confined animal feeding operations, retention and storage ponds for feed lot wastes, and stockpiles of manure solids along the County's shorelines, to avoid water pollution.
5. The conversion of agricultural lands shall mean that the lands are taken out of agricultural production and a new non-agricultural use is established. A change to a different agricultural crop does not constitute a conversion to a new use.

### Regulations

1. The provisions of this Master Program do not require modification of or limit agricultural activities on agricultural lands as of the date of adoption of the Master Program.
2. New agricultural activities on lands that did not have agricultural activities in place at the time of adoption of this Master Program; conversion of agricultural lands or 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. Discharge of any manure storage facility into ground or surface water is prohibited.
4. New feedlots and manure lagoons are prohibited from siting within the shoreline jurisdiction.
5. Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi).

## **5.2 Aquaculture**

### **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. Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection and navigation. The technology associated with some forms of aquaculture is still experimental and in formative stages. Therefore, some latitude should be given when implementing the regulations of this section, provided that potential impacts on existing uses and shoreline ecological functions and processes are given due consideration.
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.
5. Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species, or other adverse effects on ESA-listed species should not be permitted.
6. The jurisdictions should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate federal, state, tribal and local agencies and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.
7. When private or public aquaculture projects are proposed the rights of tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process. Direct coordination between the

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applicant/proponent and the tribe is encouraged.

8. Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.
9. Experimental aquaculture projects in water bodies should be limited in scale and should be approved for a limited period of time, as specified by the regulatory agency. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington.
10. Legally established aquaculture enterprises, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying an existing aquaculture operation are not consistent with these policies.

### Regulations

1. Aquaculture that involves minimal or no substrate modification shall be given preference over those that involve substantial modification. The applicant/proponent shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site. The installation of submerged structures and floating structures shall be allowed only when the applicant/proponent demonstrates that no alternative method of operation is feasible.
2. Aquaculture activities, that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions, shall be prohibited. Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality.
3. All aquaculture projects shall be reviewed by local, state and federal agencies, and FERC licensed hydro-projects.
4. New aquatic species that are not previously cultivated in Washington State shall not be introduced into freshwaters without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health.
5. Processing of any aquaculture product shall not be allowed within the shoreline jurisdiction, except for the sorting of the cultured organism and the washing or removal of surface materials or organisms after harvest.
6. Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards. No garbage, wastes or

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debris shall be allowed to accumulate at the site of any aquaculture operation.

7. In the event of a significant fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Kittitas County Public Health Department stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence.
8. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
9. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant/proponent and the affected tribe(s) through the permit review process.

### **5.3 Boating facilities and marinas**

Boating facilities, including marinas, boat storage and launch ramp development, and accessory uses, in shoreline areas shall be subject to the policies and regulations of this section and Chapter 4 General Policies and Regulations. Dock facilities not meeting the definition of a marina are subject to the policies and regulations of Section 5.12 Piers and docks.

#### Policies

1. Boating facilities should contribute to public access and enjoyment of waters of the state.
2. Regional needs for marina and boat launch facilities should be carefully considered in reviewing new proposals. Such facilities should be coordinated with park and recreation plans and, where feasible, co-located with other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including cities, adjacent counties, public utility districts, the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources to avoid unnecessary duplication and to efficiently provide recreational resources while minimizing adverse shoreline ecological impacts.
3. Boating facilities that minimize the amount of shoreline modification are preferred. Upland boat storage is preferred over new in-water moorage.
4. 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.
5. 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.
6. New or expanded boating facilities should be sited only where suitable

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environmental conditions are present and should avoid critical habitat including spawning and holding areas for anadromous fish.

7. Boating facilities should be located and designed to avoid adverse effects upon near shore processes such as erosion and riparian functions, and should, where feasible, enhance degraded and/or scarce shoreline features. Boating facilities should be designed to assure no net loss of ecological functions.
8. Non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged during the design, development and operation of boating facilities. Non-regulatory methods may include public facility and resource planning, education, voluntary protection and enhancement projects, or incentive programs.
9. Boating facilities should be located, designed and operated so that other appropriate water-dependent uses are not adversely affected.
10. Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.
11. Boating facilities should avoid adverse proximity impacts such as noise, light and glare, aesthetic impacts to adjacent land uses, and impacts to public visual access to the shoreline.

### Regulations

1. Parking for boating facilities that does not require a shoreline location in order to carry out its functions shall:
  - a. Be sited away from the land/water interface unless no feasible alternative location exists outside of the shoreline;
  - b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas;
  - c. Observe critical area buffers established by Section 4.2 Critical Areas and Appendix F; and
  - d. Be designed to incorporate low impact development practices to the extent feasible, such as, but not limited to, pervious surfaces, and bioswales.
2. Connecting roads between boating facilities and public streets shall have all weather surfacing, and be compliant with local jurisdictions' fire safety and road standards in terms of width, safety, alignment, sight distance, grade and intersection controls.
3. Minimum required setbacks from shorelines and side property lines, and maximum

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height limits are contained in Section 5.20 Shoreline bulk and dimensional standards and Table 2.

### Marinas

4. Marinas shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:
  - a. Wetlands with emergent vegetation (marsh type areas);
  - b. Spawning and holding areas for anadromous fish;
  - c. Alkaline lakes
5. Marinas may be permitted on low bank lake shores where backshore wetlands are protected, if most of the beach and backshore are preserved in a natural condition for public recreation.
6. Marinas shall not be permitted in areas of active channel migration, areas where channel dredging will be required, where a flood hazard will be created, or where shoreline ecological functions and processes will be degraded.
7. Floating piers shall be required unless it can be demonstrated that fixed piers will result in substantially less impact on geo-hydraulic processes, and that hazards can be minimized or mitigated.
8. Design and other standards for physical improvement of docks and piers are found in Section 5.12 Piers and docks.
9. Extended vessel moorage within marinas on waters of the state is limited by state regulation and requirements for a lease or permission from the state. Impacts to navigation and public access must be avoided or mitigated.
10. Marinas shall provide public access for as many water-dependent recreational uses as possible, commensurate with the scale of the proposal.
11. Marinas and accessory uses shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
12. Marina entrances shall not be located near beaches commonly used for swimming unless no alternative location exists, and mitigation is provided to minimize impacts to such areas.
13. Marinas and accessory uses shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.

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14. Marinas and accessory uses shall be located where water depths are adequate to avoid the need for dredging and/or to minimize potential loss of shoreline ecological functions or processes.
15. Marinas and accessory uses shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
16. Discharge of solid waste or sewage into a water body is prohibited. Marinas shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations.
17. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.
18. Disposal or discarding of fish cleaning wastes, scrap fish, viscera, or unused bait into the water, or in other than designated garbage receptacles, is prohibited.
19. Marina operators shall post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them.
20. Fail safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion of existing marinas. Compliance with federal, state, county and municipal codes and statutes may fulfill this.
21. Parking facilities should meet zoning standards; provided that, at a minimum, one (1) vehicle space shall be maintained for every four (4) moorage spaces and for every 400 square feet of interior floor space devoted to accessory retail sales or service use. Bicycle parking should be provided commensurate with the anticipated demand.
22. Accessory uses at marinas shall be limited to those water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public. Accessory development includes, but is not limited to, parking, open air storage, waste storage and treatment, stormwater management facilities, utilities, and land transport development.
23. In limited circumstances, water-oriented accessory uses may be located at the water's edge by conditional use if location is essential to operation of the use or if opportunities are provided for public access for a substantial number of persons.
24. Marinas shall be approved only if enhanced public access to public waters outweighs the potential adverse impacts of the use. Applications shall be accompanied by supporting application materials that document the market demand for such facilities, including:



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- a. The total amount of moorage proposed;
  - b. The proposed supply, as compared to the existing supply within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;
  - c. The expected service population and boat ownership characteristics of the population; and
  - d. Existing approved facilities, or pending applications within the service area of the proposed new facility.
25. New marinas with in-water moorage and expansion of in-water moorage facilities in existing marinas shall be approved only when:
- a. Opportunities for upland storage sufficient to meet the demand for moorage are not available on site; and
  - b. Expansion of upland storage at other existing marinas is not feasible.

The applicant shall document that a preferred method of providing moorage facilities is not feasible. Review of proposals involving public aquatic lands may be required to include an analysis of other alternative sites not controlled by the applicant/proponent.

26. Applicants shall provide an assessment of existing water-dependent uses in the vicinity including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing and document potential impacts and mitigating measures. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.
27. Marina proposals may be required to prepare a visual assessment of views from surrounding residential properties, public viewpoints and the view of the shore from the water surface.
28. Applicants for marinas shall provide habitat surveys, critical area studies, and mitigation plans as required by Section 4.2, Critical Areas. A slope bathymetry map may be required when deemed beneficial by the Administrator for the review of the project proposal.

### Launch ramps

29. Launch ramps shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:

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- a. Wetlands with emergent vegetation (marsh type areas);
  - b. Spawning and holding areas for anadromous fish;
  - c. Alkaline lakes
30. Launch ramps may be permitted on low bank lake shores where backshore wetlands are protected, if most of the beach and backshore are preserved in a natural condition for open space or public recreation, when consistent with the provisions in Section 4.1 Ecological Protection and Critical Areas and Appendix F.
  31. Launch ramp facilities shall provide public access for as many water-dependent recreational uses and users as possible, commensurate with the scale of the proposal.
  32. Launch ramp facilities shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
  33. Public launch ramps shall not be located near beaches commonly used for swimming unless no alternative location exists, and mitigation is provided to minimize impacts to such areas.
  34. Launch ramps shall be located where water depths are adequate to avoid the need for dredging and/or to minimize potential loss of shoreline ecological functions or processes.
  35. Launch ramps shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
  36. Discharge of solid waste or sewage into a water body is prohibited. Boat launch facilities shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations.
  37. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.
  38. Disposal or discarding of fish cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited.
  39. At public or community launch ramps, trailer spaces at least 10 feet by 40 feet shall be provided commensurate with projected demand.
  40. Preferred launch ramp designs, in order of priority, are:
    - a. Open grid designs with minimum coverage of substrate.

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- b. Seasonal ramps that can be removed and stored upland.
  - c. Structures with segmented pads and flexible connections that leave space for natural substrate and can adapt to changes in substrate profile.
41. Launch ramps shall be placed and maintained near flush with the foreshore slope.
42. Accessory uses at launch ramps shall be limited to those water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public. Accessory development includes, but is not limited to, parking, open air storage, waste storage and treatment, stormwater management facilities, utilities, and land transport development.
43. New public or community launch ramps, shall be approved only if enhanced public access to public waters outweighs the potential adverse impacts of the use. Applications shall be accompanied by supporting application materials that document the market demand for such facilities, including:
- a. The total amount of moorage proposed, if applicable;
  - b. The proposed supply and design capacity, as compared to the existing supply and design capacity within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;
  - c. The expected service population and boat ownership characteristics of the population;
  - d. Existing approved facilities, or pending applications within the service area of the proposed new facility.
44. Applicants for public boat launches shall provide habitat surveys, critical area studies, and mitigation plans as required by Section 4.2, Critical Areas. A slope bathymetry map may be required when deemed beneficial by the Administrator for the review of the project proposal.
45. Applicants shall provide an assessment of existing water-dependent uses in the vicinity including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing and document potential impacts and mitigating measures. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.
46. Marina and launch ramp proposals may be required to prepare a visual assessment of views from surrounding residential properties, public viewpoints and the view of the shore from the water surface.
47. Launch facilities within the natural environment are permitted as a conditional

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use. These launch facilities shall be limited to public access, interpretive or nature observation facilities that are compatible with the areas physical and visual character and the policies of this Program.

### Boat storage

48. Where long-term boat storage is provided it shall consist of dry upland boat storage with a launch mechanism to protect shoreline ecological functions and processes, and it shall efficiently use shoreline space. Boat storage facilities shall minimize consumption of public water surface area unless no suitable upland locations exist for such facilities, or it can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes or enhance public use of the shoreline.
49. Boat (dry moorage) and other storage areas shall be located in an upland area consistent with the setback provisions of Section 5.20, and be landscaped with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.
50. Covered moorages are prohibited.
51. Boats shall not be used as a place of habitation for other than short term recreational use, not exceeding 14 days in any sixty day period.

### **5.4 Breakwaters, jetties, groins, and weirs**

*[Placeholder for breakwaters, jetties, groins, and weirs policies and regulations.]*

### **5.5 Commercial development**

#### Policies

1. In securing shoreline locations for commercial uses, preference should be given first to water-dependent commercial uses, then to water-related, and then to water-enjoyment commercial uses.
2. Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.
3. Commercial uses located in the shoreline should ensure visual compatibility with adjacent non-commercial properties by establishing design guidelines that address a master planned approach with a thematic architectural design approach to the area.
4. 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.

### Regulations

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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. Water-related commercial uses may not be approved if they displace existing water-dependent uses. Prior to approval of a water-related commercial use, 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-related use.
3. Water-enjoyment commercial uses may be not be approved if they displace existing water-dependent or water-related uses or if they occupy space designated for water-dependent or water-related use in a substantial development permit or other approval. Prior to approval of water-enjoyment 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-enjoyment use.
4. Non-water-oriented commercial uses may be permitted 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.
5. 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.
6. 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.
7. 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.
8. 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.

**5.6 *Dredging and dredge material disposal***  
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. Dredging should be permitted for water-dependent uses of economic importance to the region and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this Program.
6. Minor dredging as part of ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this Program.
7. Dredging of bottom materials for the primary purpose of obtaining material for landfill, construction, or beach nourishment should not be permitted, unless permitted under Section 5.11 Mining.
8. Dredge material disposal on land away from the shoreline is generally preferred over open water disposal.
9. Long-term cooperative management programs that rely primarily on natural processes, and involve land owners and applicable local, state and federal agencies and tribes should be encouraged to prevent or minimize conditions which make dredging necessary.

Regulations

1. Dredging shall only be permitted for the following activities:
  - a. Development of new or expanded wet moorages where there are no feasible alternatives or other alternatives may have a greater ecological impact.
  - b. Development of water dependent industries of economic importance to the

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region only where there are no feasible alternatives.

- c. Development of essential public facilities when there are no feasible alternatives.
  - d. Maintenance dredging for the purpose of restoring a lawfully established development.
  - e. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
  - f. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
  - g. Minor trenching to allow the installation of necessary underground pipes or cables if no alternative, including boring, is feasible, and:
    - (1) Impacts to fish and wildlife habitat are avoided to the maximum extent possible.
    - (2) The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
    - (3) Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
    - (4) Mitigation is implemented, as appropriate, pursuant to Section 4.2 Critical Areas.
  - h. Dredging for the purpose of obtaining landfill material is prohibited, except that permitted under Section 5.11 Mining.
  - i. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins where necessary for assuring safe and efficient accommodation of existing navigational uses.
  - j. Maintenance dredging of established navigation channels and basins.
2. The physical alignment and ecological functions and processes of streams, lakes or riverine shorelines shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage.
  3. Limitations on dredging or disposal operations may be imposed to reduce proximity impacts to protect public safety, and to assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, the type of machinery used, and may require landscaped buffer strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.
  4. Dredge material disposal:

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- a. Dredge material disposal on land away from the shoreline is permitted under the following conditions:
    - (1) Shoreline ecological functions and processes will be preserved, including protection of surface and ground water.
    - (2) Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
    - (3) Sites will be adequately screened from view of local residents or passersby on public right-of-ways.
  - b. Dredge material disposal is prohibited on lake shorelines or beds, and in streams; except that, dredge spoil may be used in approved projects for the restoration or enhancement of shoreline ecological functions and processes.
  - c. Dredge material disposal in open waters may be approved only when authorized by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA); and when found to meet one or more of the following conditions:
    - (1) Land disposal is infeasible, less consistent with this Master Program, or prohibited by law.
    - (2) Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
    - (3) Offshore habitat will be protected, restored, or enhanced.
    - (4) Adverse effects on water quality or biologic resources from contaminated materials will be mitigated.
    - (5) Shifting and dispersal of dredge material will be minimal.
    - (6) Water quality will not be adversely affected.
5. The following information shall be required for all dredging applications:
- a. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this Program will be achieved.
  - b. A detailed description of the existing physical character, shoreline geomorphology and the biological resources that are provided by the area proposed to be dredged, including:
    - (1) A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry depths and have data points at a minimum of 2-foot depth increments.
    - (2) Habitat surveys, critical area studies, and mitigation plans as required by Section 4.2 Critical Areas.
    - (3) Information on stability of bedlands adjacent to proposed dredging and



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dredge material disposal areas.

- c. A detailed description of the physical, chemical and biological characteristics of the dredge material to be removed including;
  - (1) Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.
  - (2) Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.
  - (3) Biological analysis of material to be dredged.
- d. A description of the method of dredging including
  - (1) Facilities for settlement and movement.
  - (2) Dredging procedure: length of time it will take to complete dredging, method of dredging and amount of materials removed.
  - (3) Frequency and quantity of project maintenance dredging.
- e. Detailed plans for dredge material disposal, including specific land disposal sites and relevant information on the disposal site, including but not limited to:
  - (1) Dredge material disposal area:
    - (a) Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
    - (b) Size and capacity of disposal site;
    - (c) Means of transportation to the disposal site;
    - (d) Proposed dewatering and stabilization of spoils;
    - (e) Methods of controlling erosion and sedimentation; and
    - (f) Future use of the site and conformance with land use policies and regulations.
  - (2) Total initial dredge material volume expected.
  - (3) Plan for disposal of maintenance dredge material for at least a fifty (50) year period, if applicable.
- f. The Administrator may require hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

## **5.7 Industrial and port development**

### Policies

1. Shoreline sites particularly suitable for development such as areas with access to adequate rail, highway and utility systems should be reserved for water-dependent or water-related industrial development.
2. In order to provide adequate shoreline for future water-dependent and water-related uses, industrial development should be limited to those uses that produce the greatest long-term economic base. Industrial development that is consistent with this Program should be protected from encroachment or interference by incompatible uses with less stringent site requirements, such as residential or commercial uses.
3. Multiple use of industrial facilities is encouraged to limit duplicative facilities and reduce adverse impacts. Multiple uses should be implemented through cooperative site planning.
4. Industrial development in the shoreline should be located and designed to avoid significant adverse impacts to other shoreline uses, resources, and values, including shoreline geomorphic processes, water quality, fish and wildlife habitat, and the aquatic food chain.
5. Restoration of impaired shoreline ecological functions and processes should be encouraged as a component of industrial development.

### 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. Water-related industrial uses may not be approved if they displace existing water-dependent uses. Prior to approval of a water-related use, 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-related.
  - c. 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

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in the shoreline unless the use provides significant public benefit with respect to the objective of the Act and is:

- (1) 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
  - (2) 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.
- d. 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 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 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.

### **5.8 Instream structures**

#### Policies

1. Instream 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.

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3. Instream 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. Instream 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 instream 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 instream structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.

### 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. Instream 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 instream 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. Instream structures shall allow for natural ground water movement and surface runoff.
6. The jurisdictions shall require professionally engineered design of any proposed instream 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.

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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 instream 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.

### **5.9 Filling, grading and excavation** Policies

1. Filling, grading, and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with the least feasible impact to shorelands.
2. Filling, grading and excavation in water bodies, floodways, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity. Fill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build beaches and protective berms for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with this Program.
3. Filling, grading, and excavation should not be allowed where shoreline stabilization works would be required to maintain the materials placed.
4. Filling, grading and excavation should be located and developed so that water quality and hydrologic and runoff patterns are not altered.
5. Excavation and grading may be permitted landward of the ordinary high water mark of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.

### Regulations

1. Filling, grading, and excavation shall be minimized to the maximum extent practicable and only authorized along with approved shoreline use and development activities that are consistent with this Program.
2. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support:

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- 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,
  - 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. Excavation that occurs either waterward of the OHWM or within wetlands shall be considered dredging for purposes of this Program.
  4. 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.
  5. 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.
  6. 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.
  7. 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.
  8. 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.

### **5.10 Forest practices (non-harvest)**

[Placeholder for draft policies and regulations]

## **5.11 Mining**

### 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 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.

### Regulations

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1. 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).
2. 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.
3. 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.
4. 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.
5. Subsequent use of reclaimed sites shall be consistent with the provisions of this Program.
6. Mining of, including but not limited to, sand, gravel, cobbles, or boulders from any alkaline lake or shoreline is prohibited.
7. Mining is prohibited waterward of the ordinary high water mark of the Columbia River.
8. 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).



### **5.12 Piers and docks**

#### Policies

1. Where other community or public moorage facilities are available, individual moorage associated with a single family residence will be discouraged.
2. New moorage, excluding docks (private, joint-use, and community) 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.
3. As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Moorage facilities for new residential development of two or more lots or two or more dwelling units should provide shared moorage facilities.
4. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to navigation and other water-oriented activities such as fishing, swimming and pleasure boating, as well as property rights of adjacent land owners.
5. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length, width and height of piers and docks should be no greater than necessary for safety and functional use.
6. Vessels should be restricted from extended mooring on waters of the state unless a lease or permission is obtained from the DNR and impacts to navigation and public access are mitigated.
7. Moorage facilities should not be constructed of materials that will adversely affect water quality or aquatic plants and animals.
8. New moorage facilities should be designed so as not to interfere with lawful public access to or use of shorelines.
9. Multiple agencies have permitting standards, requirements or limitations for the use and development of moorage facilities. Many of these agencies have specific ownership or easement rights. The county and cities should coordinate with federal, tribal, state and local agencies during the review of shoreline permits. The granting of a shoreline permit does not relieve a project from compliance with the standards of other agencies.

#### Regulations

1. Shared moorage to serve new residential development shall be limited to the amount of moorage needed to serve lots within the development.
2. Residential moorage for individual lots is permitted in subdivisions legally

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established prior to February 20, 1975, where shared moorage has not already been developed or required; private moorage is also permitted for individual legal lots of record, not part of an approved subdivision. In these circumstances, moorage shall be limited to one private dock per shoreline residential lot. Lot owners shall be encouraged to utilize mooring buoys or to coordinate with adjoining property owners for shared moorage.

3. If moorage is to be provided as part of a new residential development of two or more dwelling units, moorage facilities shall be joint use or community docks. New residential developments shall contain a restriction on the face of the plat and restrictive covenants prohibiting individual docks and requiring joint use or community dock facilities. Community dock facilities should be encouraged. A site for shared moorage should be owned in undivided interest by property owners or managed by the homeowner's association as a common easement within the residential development. Community dock facilities should be available to property owners in the residential development for community access. If shared moorage is provided, the applicant/proponent shall file at the time of building permit submittal for the dock a legally enforceable joint use agreement or other legal instrument that, at minimum, addresses the following:
  - a. Provisions for maintenance and operation;
  - b. Easements or tracts for community access; and
  - c. Provisions for joint or community use for all benefiting parties.
4. Commercial docks shall be permitted only for water-dependent uses, and if the applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for the proposed water-dependent use.
5. Private moorage for float planes may be permitted accessory to existing or concurrently proposed moorage where construction would not adversely affect shoreline functions or processes, including wildlife use. Ecological restoration may be required to compensate for the greater intensity of activity associated with the use. An analysis of potential life and navigation safety impacts shall be required in addition to the inclusion of necessary avoidance or mitigation measures by a qualified professional.
6. New and substantially expanded piers and docks shall be constructed of materials that are approved by applicable federal and state agencies for use in water to avoid adverse effects on water quality or aquatic plants and animals in the long-term for both submerged portions of the dock and decking and other components. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited.
7. Moorage facilities shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall observe the following criteria:

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- a. If allowed, only one private dock with one accessory float, and two watercraft lifts (the combination of one boat and one jet ski or other watercraft together) shall be permitted on a shoreline lot owned for residential or private recreational use.
  - b. Docks with or without a float shall be the minimum required to provide for moorage. Commercial docks shall be the minimum length necessary to serve the type of vessel served. Exceptions to these length standards are addressed below.
  - c. Docks on the Columbia River that exceed 100 feet in length or docks which exceed 50 feet in length on a lake or sites with unique characteristics that may create navigational safety hazards shall prepare a navigational safety study.
  - d. Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.
8. When a public utility district, PUD, owns land between a residential development and the ordinary high water mark of the shoreline, the following requirements shall apply:
- a. Applications for moorage facilities must include authorization from the applicable PUD, in order for application materials to be determined complete. Authorization will either consist of a written letter or signature on the application by the PUD.
  - b. Where proposed moorage facilities receive shoreline permit approval, permit conditions shall require that the county or city receive written verification from the PUD of compliance with all applicable standards of the PUD prior to site work commencing or building permit issuance by the jurisdiction.
  - c. Language on the face of the plat and restrictive covenants shall prohibit individual docks and require joint use or community dock facilities, when such facilities are permitted by all applicable agencies, including the PUD.
  - d. Access easements or tracts shall provide access to the PUD property, in a location approved by the PUD.

Plat covenants and restrictions do not guarantee a PUD permit or approval will be issued. Plat covenants and restrictions will not vest a property right to the intervening PUD lands. All permits or approvals issued by a PUD are personal and conditional in nature and may be cancelled at any time and for any reason.

9. In order to minimize impacts on near shore areas and avoid reduction in ambient light level:

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a. Pier and ramp construction must meet the following standards:

- (1) The width of piers and ramps shall not exceed 4 feet for single or joint-use docks. Greater widths may be permitted for community, public or commercial docks where use patterns can justify the increase;
- (2) The bottom of the pier or bottom of the landward edge of a ramp, must be elevated at least two (2) feet above the plane of OHWM;
- (3) Pier and/or ramp surfaces are to consist of either grating or clear translucent material; and
- (4) Pier and ramp construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources and the United States Army Corps of Engineers.

b. Float construction must meet the following standards:

- (1) Any float materials that are in contact with the water must be white or translucent;
- (2) Flotation materials must be permanently encased to prevent breakup and release of small floatation pieces;
- (3) Decking or surface area of the float must consist of either grating or clear translucent material;
- (4) Floats cannot be located where they could impede fish passage; and
- (5) Float construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources and the United States Army Corps of Engineers.

10. Private docks shall not encroach into the required side yard setbacks for residential development (both onshore and offshore); provided that, a shared moorage may be located adjacent to or upon a side property line of the affected properties upon filing of an easement agreement or other legal instrument by the affected property owners.

11. Piers and docks shall use pile supports unless engineering studies demonstrate that pile supports are insufficient to ensure public safety. Rip-rapped or bulkheaded fills may be approved only as a conditional use and only when demonstrated that no feasible alternative is available. Mitigation shall be provided to ensure no net loss of shoreline ecological functions and processes.

12. Mooring buoys shall be placed at a distance specified by state and federal

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agencies to avoid near shore habitat and to minimize obstruction to navigation. Anchors and other design features shall meet Washington Department of Fish and Wildlife and/or Department of Natural Resources standards.

13. Commercial covered moorage may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be necessary over water, including demonstration that adequate upland sites are not feasible. All other covered moorage is prohibited.
14. Water supply, sewage disposal and disposal of non-hazardous materials associated with activities on docks and piers shall conform to applicable health standards.
15. Moorage facilities shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be generally non-reflective.
16. Moorage facilities shall be constructed and maintained so that no part of a facility creates hazardous conditions nor damages other shore property or natural features during predictable flood conditions. Floats shall be securely anchored.
17. No pier, dock, or watercraft or houseboat moored thereto shall be used for a residence. Boaters may not reside in their vessels for other than short term recreational use, not exceeding 14 days in any sixty day period.
18. Storage of fuel, oils, and other toxic materials is prohibited on docks and piers except portable containers when provided with secondary containment.
19. Public access facilities shall be provided in accordance with policies and regulations in Section 4.4 Public Access.
20. A list of dock, boat lift, and mooring buoy design parameter recommendations should be developed through coordination among the cities, the county, U.S. Army Corps of Engineers, Washington State Department of Fish and Wildlife, Ecology, and Natural Resources, U.S. Fish and Wildlife Service, NOAA Fisheries, and local public utility districts. Substantial development permits for mooring buoys and docks with less than 10 slips that address these recommendations may be reviewed administratively in all shoreline areas except for the natural shoreline environment.
21. All moorage facilities must permanently mark all of the components with name, address, telephone number and the date of installation.
22. In the natural environment designation moorage facilities must be compatible with the area's physical and visual character may be conditionally permitted subject to policies and regulations of this Program.
23. Moorage facilities shall avoid locations that will adversely impact shoreline

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ecological functions or processes.

24. Applicants for moorage facilities shall provide habitat surveys, critical area studies, and mitigation plans as required by Section 4.2, Critical Areas. A slope bathymetry map may be required when deemed beneficial by the Administrator for the review of the project proposal.

### **5.13 Recreation**

#### **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. New recreational facilities should be located along the shoreline in a dispersed linear pattern that provides recreational access and aesthetic enjoyment of the shoreline for a substantial number of people consistent with the purpose of the specific shoreline environment designation and level of service standards in the comprehensive plans.
3. The linkage of shoreline parks and public access points should be considered with the use of linear access routes such as walking paths, bicycle trails and/or scenic drives. Such linkages may serve both a recreation and transportation function.
4. Recreational uses and development should provide for the preservation and enhancement of scenic views and vistas.
5. 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.
6. Prohibit the use of motorized vehicles other than service vehicles on beaches, dunes and fragile shoreline resources.
7. Recreational uses and facilities should be designed and located to ensure no net loss of critical areas and shoreline ecological functions.
8. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities.
9. Recreation uses and facilities should be located only where utility infrastructure and road capability is adequate, commensurate with the intensity of anticipated users to protect the public health, safety and welfare.
10. Where consistent with the provisions of this Program, development should specifically support opportunities to increase or enhance the following forms of

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recreation: boating, fishing, camping, hiking, bicycle riding, swimming and picnicking.

11. Commercial recreational facilities should be consistent with the provisions of Section 5.5 Commercial development.
12. The use of native plant species in new recreation facilities is preferred over the use of plant types that need extensive maintenance and support (mowing, pruning, irrigation, etc.).

### 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.
2. Recreation facilities shall be designed to take maximum advantage of and enhance the natural character of the shoreline area.
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 5.4 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. 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.
7. State-owned shorelines of the state are priority locations for wilderness beaches, ecological study areas and other recreational activities for the general public.
8. Use of motor vehicles including recreational off-road vehicles is permitted only on roads or trails specifically designated for such use as necessary for public health and safety or for maintenance of the recreation facility.
9. Recreational facilities specifically designed for off-road vehicle use are prohibited on, or in, beaches, streams, or wetlands and their associated buffers.
10. Within the natural environment designation, passive water-oriented recreational development, such as primitive trails or primitive campsites is permitted subject

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to the following criteria:

- a. Substantial alterations to topography or native vegetation are prohibited; and
- b. Any necessary landscaping or site restoration shall use native or similar self-maintaining vegetation.

### **5.14 Residential development** Policies

1. New residential development should be planned and built in accordance with the policies and regulations of this Program, including without limitation Section 4.2 Critical Areas.
2. Single family residences are a priority use when developed in a manner consistent with control of pollution and prevention of damage to the shoreline.
3. Residential development, including 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.)
4. Residential development 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.
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. New over-water residential development is prohibited.
7. Allowable density of new residential development should comply with applicable comprehensive plan goals and policies, zoning restrictions and shoreline environment designation standards.
8. Residential structures or development of uses accessory to residential projects must be designed and constructed in a manner that will result in no net loss of shoreline ecological functions and processes.
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



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management 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.

### Regulations

1. New residential development 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. Minimum required setbacks from critical area buffers and side property lines, maximum height limits and density standards are contained in Section 5.20 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 publicly owned shorelines or public water bodies as provided for in Section 4.4, Public Access.
7. New stairways built for access to the shoreline may be permitted when consistent with the provisions of this Master Program and the project proponent demonstrates that:
  - a. Existing shared, public or community facilities are not adequate or available for use;
  - b. The possibility of a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible; and
  - c. The stairway is designed and located such that:

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- (1) subsequent shoreline modification, including the installation of shoreline stabilization, solely for the purpose of protecting the structure is not necessary;
  - (2) removal or modification of existing shoreline vegetation is the minimum necessary to accomplish the purpose, and is planned to be replaced with appropriate native species within the next growing season; and
  - (3) no fill or other modification waterward of the ordinary high water mark is necessary to construct or use the structure.
8. New lots located all or in part within the natural environment designation outside of urban growth areas, shall not be less than 10 acres in area, as measured landward of the ordinary high water mark.

### **5.15 Shoreline stabilization**

#### Policies

1. Alternatives to structures for shoreline protection should be used 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 or expanded structural shoreline stabilization for new primary structures should be avoided. Instead, structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land divisions should be designed to assure that future development of the created lots will not require structural shoreline stabilization for reasonable development to occur.
3. New or expanded structural shoreline stabilization should only be permitted 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 enhancement, restoration, or hazardous substance remediation projects should only be allowed 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 be permitted that would interfere with public access to shorelines, nor with other appropriate shoreline uses.
6. Provisions for multiple use, restoration, and/or public shoreline access should be incorporated into the location, design and maintenance of shoreline stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shore stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.
7. Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies. Where erosion threatens existing

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development, a comprehensive program for shoreline management should be established.

8. In addition to conformance with the regulations in this section, 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. Failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using non-structural methods or less harmful long-term stabilization measures.
10. 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.
11. Larger works such as jetties, breakwaters, weirs or groin systems should be permitted only for water-dependent uses when the benefits to the region outweigh short term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.
12. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

### Regulations

1. New development or land divisions with a known or suspected geological hazard shall be set back from the geologic hazard or designed sufficiently to ensure that shoreline stabilization is not required during the life of the project, as demonstrated by a geotechnical analysis prepared in conformance with Section 4.1 Ecological Protection and Critical Areas.
2. New, expanded or replacement shoreline stabilization shall not be permitted unless it can be demonstrated that the proposed measures will not result in a net loss of shoreline ecological functions.
3. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are prohibited unless 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.

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4. New shoreline stabilization for new water-dependent development is prohibited unless 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.
5. New shoreline stabilization for new non-water-dependent development, including single family residences, is prohibited unless 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.
6. Where shoreline stabilization is allowed, it shall consist of “soft”, flexible, and/or natural materials or other bioengineered approaches unless a geotechnical analysis demonstrates that such measures are infeasible.
7. Replacement of an existing shoreline stabilization structure with a similar structure is 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. A geotechnical analysis shall be required to document that alternative solutions are not feasible or do not provide sufficient protection. Existing shoreline stabilization structures that are being replaced shall be removed from the shoreline unless removal of such structures will cause significant damage to shoreline ecological functions or processes. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill to qualify for single family home exemption. Replacement walls, bulkheads or revetments shall not encroach waterward of the ordinary high water mark or the existing shore defense structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
8. Beach nourishment and bioengineered erosion control projects may be

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considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife.

9. Groins are prohibited except as a component of a professionally designed community or public beach management program that encompasses an entire reach for which alternatives are infeasible, or where installed to protect or restore shoreline ecological functions or processes.
10. Jetties and breakwaters are prohibited except as an integral component of a professionally designed marina. Where permitted, floating, portable or submerged breakwater structures, or smaller discontinuous structures are preferred where physical conditions make such alternatives with less impact feasible.
11. New or expanded shoreline stabilization may be permitted to protect projects with the primary purpose of enhancing or restoring ecological functions, or hazardous substance remediation permits pursuant to RCW 70.105D, Hazardous Waste Cleanup, when non-structural approaches, such as vegetation planting, and/or onsite drainage improvements are not feasible or do not provide sufficient protection.
12. Proposed designs for new or expanded shoreline stabilization shall be designed and certified by a qualified engineer and a qualified biologist.
13. No motor vehicles, appliances, other similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shore stabilization.
14. The size of shore stabilization measures shall be limited to the minimum necessary to provide protection for the primary structure or use it is intended to protect.
15. Public access shall be provided for publicly financed shoreline erosion control measures consistent with the requirements of WAC 173-26-231(3)(a)(iii)(E).
16. 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.
17. 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

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years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

18. Shoreline stabilization for the purposes of addressing mass wasting or erosion due to upland conditions shall also be in conformance with Section 4.1 Ecological Protection and Critical Areas.

### **5.16 Shoreline habitat enhancement**

**[Placeholder for shoreline habitat enhancement policies and regulations.]**

### **5.17 Signs**

#### 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.
3. As a preferable alternative to single purpose signs, communities, districts, and/or multiuse or multi-tenant commercial developments should be encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities.
4. Signs of a commercial or industrial nature should be limited to those areas or premises to which the sign messages refer.
5. Billboards and other off-premise signs should not be located on shorelines except for approved community gateway or directional signs.
6. Signs near scenic vistas and viewpoints should be restricted in number, location, and height so that enjoyment of these limited and scarce areas is not impaired.
7. Free-standing signs should be located to avoid blocking scenic views and be located on the inland side of public transportation routes.
8. Moving or flashing signs should be prohibited on shorelines.

#### Regulations

1. Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided that they are the minimum necessary to achieve the intended purpose. Such signs include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.
2. All building and wall signs shall be integrated with building design. Roof signs

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shall be designed to occupy a design feature of the roof such as a dormer or gable and may not be placed above the peak of a pitched roof or the eave of a flat roof. Projecting signs shall be incorporated in a marquee, canopy, or other architectural feature.

3. Sign illumination shall be indirect incorporating exterior lighting shining on the sign, or shadow illumination behind non-transparent materials. Internally illuminated signs are prohibited.
4. Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character are prohibited on shorelines; provided that, pennants, banners and other devices of seasonal, holiday, or special event character may be utilized for up to ninety (90) days in one (1) year.
5. To protect views from the water free-standing signs are prohibited between buildings, and/or the public right of way and OHWM.
6. Directional or interpretive signs up to 2 square feet in area relating to public access areas, and required traffic safety signs may be permitted between such rights-of-way and water bodies.
7. All signs authorized by this Program are subject to the setbacks provided in Table 2 of Section 5.20 Shoreline Bulk and Dimensional Standards.
8. Building mounted signs are subject to setbacks applicable to buildings. Height of wall signs may be measured from the floor elevation of the uppermost finished story.
9. Temporary construction and real estate signs not exceeding thirty-two square feet in area are permitted.
10. Temporary political signs not exceeding thirty-two square feet in area which, during a campaign, advertises a candidate for public elective office, a political party, or promotes a position of a public issue, provided such signs are not posted in public right-of-way and are removed within thirty days following the election.
11. Signs which are not accessory to a permitted use except as described in regulations 1, 6, 9, and 10 of this section shall be prohibited within the natural environment designation.

### **5.18 Transportation Policies**

1. New public or private transportation facilities should be located inland from the water, preferably out of the shoreline, unless:

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- 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 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 transportation system projects in shoreline areas.
  8. Public transportation routes should be located, designed, and maintained to provide safe enjoyment of adjacent shoreline areas.

### Regulations

1. Transportation facilities on shorelines shall be designed to generally follow natural topography, to minimize cuts and/or fills, and to avoid adverse impacts to shoreline ecological functions and processes. Facilities close to water, wetlands or other sensitive features shall incorporate the maximum feasible buffer of native vegetation in accordance with critical area regulations.
2. Non-motorized transportation facilities shall be incorporated within planned transportation improvements.
3. Parking facilities are not a water-dependent use and shall only be permitted in the shoreline to support an authorized use where it can be demonstrated that



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there are no feasible alternative locations away from the shoreline. Parking facilities shall be buffered from the water's edge and less intense adjacent land uses by vegetation, undeveloped space, topography, or structures developed for the authorized primary use.

4. Transportation facilities shall be constructed of materials which will not adversely affect water quality or aquatic plants and animals over the long-term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Preferred materials are concrete and steel.
5. Parking areas shall be developed utilizing low impact development techniques whenever possible including, but not limited to, the use of permeable surfacing materials as allowed by the local jurisdiction ordinances.
6. Transportation development shall be carried out in a manner that maintains or improves state water quality standards for affected waters.
7. Maintenance activities, including vegetation control and erosion control, shall be carried out consistent with this Program. Necessary minor resurfacing of existing roadways and replacement of culverts that improve shoreline ecological functions may be exempt from substantial development permit requirements.
8. Any proposed vacation of right of way for a street or alley that abuts a body of water shall only be pursued if it is in conformance with RCW 36.87.130 or RCW 35.79.035.
9. Transportation facilities proposed within shoreline jurisdiction shall document that the facility cannot be feasibly located outside of shoreline jurisdiction due to the uses served or the need to connect specific end points. An analysis of alternatives may be required.
10. Applicants shall document the location, design and use achieves no net loss of shoreline ecological functions and incorporates appropriate mitigation.
11. Applicants shall document that facilities avoid public recreation areas and significant natural, historic, archaeological or cultural resources, or that no alternative is feasible outside of the shoreline and that all feasible measures to minimize adverse impacts have been incorporated into the proposal.

### **5.19 Utilities** **Policies**

1. New public or private utilities should be located inland from the water unless,
  - a. Perpendicular water crossings are unavoidable; or

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- b. Utilities are required for authorized shoreline uses consistent with this Master Program.
2. Utilities should be located and designed to avoid adverse impacts to public recreation and public access areas and significant natural, historic, archaeological or cultural resources.
3. Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes.
4. Site planning and rights of way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.
5. Utilities should be located in existing rights of way and corridors.
6. Utilities serving new development shall be located underground, where practical.
7. Development and/or maintenance of utility facilities that would disrupt shoreline ecological functions should be discouraged. When permitted, facilities and/or maintenance should not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

### Regulations

1. All applicants shall document that the facility cannot be feasibly located outside of shoreline jurisdiction due to the uses served or the need to cross shorelands to connect specific end points. An analysis of alternatives may be required. New or expanded public or private utilities should be located inland from the water, preferably out of shoreline jurisdiction.
2. All applicants shall document that the proposed facilities comply with critical area regulations in Section 4.2, Critical Areas.
3. All applicants shall document how the location, design and use achieves no net loss of shoreline ecological functions and incorporates appropriate mitigation.
4. Applicants shall document that facilities will avoid adverse impacts to public recreation areas and significant natural, historic, archaeological or cultural sites, and that all feasible measures to minimize adverse impacts to such resources have been incorporated into the proposal.
5. Applications must demonstrate adequate provisions for preventing spills or leaks, as well as procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.

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6. Applications must demonstrate that the utility facility has located in existing right-of-way corridors where feasible.
7. Applications must demonstrate that the utility facility minimizes conflicts with present and planned uses of the shoreline.
8. Facilities shall not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access and archaeological, historic, and cultural resources, and aesthetic resources.
9. Some utilities have critical location requirements, but are not normally water-dependent. Components that are not water-dependent shall not be located within the shoreline jurisdiction unless alternatives are infeasible and shall include analysis of alternative routes, and alternative designs which avoid or minimize impacts. Facilities not water dependent include, but are not limited to:
  - a. Sewage trunk lines, interceptors, and pump stations.
  - b. Oil, gas and natural gas pipelines.
  - c. Energy and communication systems including substations, towers, and transmission/distribution lines.
10. Solid Waste Facilities:
  - a. Facilities for processing and storage and disposal of solid waste are not normally water-dependent. Components that are not water-dependent shall not be permitted within the shoreline jurisdiction.
  - b. Disposal of solid waste on shorelines or in water bodies shall not be permitted.
  - c. Temporary storage of solid waste in suitable receptacles is permitted as accessory use to a primary permitted use, or for litter control.
11. Developers and operators of pipelines and related appurtenances for gas and oil shall be required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.
12. Poles or supports treated with creosote or other wood preservatives shall not be used in the water, along shorelines where contact with groundwater may occur or associated wetlands.
13. Where road right of ways or easements are within 150 feet and also are parallel to the shoreline for more than 500 feet, no new overhead wiring shall be installed

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between the road and OHWM.

14. Utilities for new development within the shoreline shall be installed underground.
15. Where federal requirements do not exempt hydroelectric facilities, dams, and diversion and tailrace structures from the provisions of this Program, such facilities shall be a conditional use.

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

#### 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.

#### 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 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 173-27-170, 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

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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.
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 Appendix F 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.

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- 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 at the time 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:

- (1) The width of the undeveloped lot is less than 150 feet;
- (2) The lot is located within an Urban Growth Area, Planned Development, Rural Service Center or Rural Recreation zoning districts, or is a cluster lot.

b. Common line buffers/setbacks shall not apply when:

- (1) The elevation of adjacent structures on adjacent lots are 15' higher or lower from the natural grade on the vacant center lot.
- (2) One of the adjacent lots is undeveloped.
- (3) Either of the adjacent lots has been developed since the date of adoption of this Program.
- (4) 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 with the applicable appendices of the jurisdiction in Appendix F.

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8. Critical area buffer: See Appendix F for critical areas buffer standards within shoreline jurisdiction.

9. Density of development:

Residential density standards for urban and rural areas are listed below. Additional standards which apply to impervious surface area and water quality review may be found in Section 4.6, Water Quality, Storm Water and Nonpoint Pollution.

Rural density standards- Where permitted, multi-family development, duplexes, subdivisions and short plats outside of urban growth boundaries shall not exceed the following maximum density standards, in addition to compliance with all other applicable provisions of this Program:

- Urban conservancy: 3 dwelling units per acre
- Shoreline residential: 3 dwelling units per acre
- Rural conservancy: 1 dwelling unit per 2 acres
- Natural: 1 dwelling unit per 10 acres

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.

Urban density standards. Where permitted, multi-family development, duplexes, subdivisions and short plats within urban growth boundaries shall not exceed the following maximum density standards, in addition to compliance with all other applicable provisions of this Program:

- Shoreline residential: 5 dwelling units per acre
- Urban conservancy: 17 dwelling units per acre
- High intensity & Mixed-Use: 26 dwelling units per acre
- Natural: 1 dwelling unit per 10 acres

The maximum allowable development density shall be calculated based upon the area

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of the parent parcel located within the shoreline jurisdiction. Submerged lands within the boundaries of the parcel, located waterward of the ordinary high water mark, shall not be used in calculating the density of development for the land within the shoreline area or for the entire parcel. 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.

### 10. Lot frontage:

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 measured 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.

[Placeholder for Lot Frontage Table]

### 11. Table 2. Building setbacks/side yard setbacks/height limits:

[Placeholder for Dimensional Standards Table]

### 12. Administrative Setback Reduction.

The Administrator shall have the authority to reduce building and side yard setbacks established by Regulation #11 of Section 5.20, on a case-by-case basis for structures which would be placed on existing legal lots of record in place at the time of adoption of this Program. 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 Section 7.3.030 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



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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.

## **6. Administration and procedures**

Sections:

- 6.1 Administrator
- 6.2 SEPA official
- 6.3 Hearing examiner
- 6.4 Planning commission
- 6.5 [City/Town Councils or Board of County Commissioners]
- 6.6 Shoreline substantial development permits
- 6.7 Shoreline exemptions
- 6.8 Variances
- 6.9 Conditional uses
- 6.10 Minimum application requirements
- 6.11 Application review and process
- 6.12 Permit conditions
- 6.13 Initiation of development
- 6.14 Permit revisions
- 6.15 Appeals
- 6.16 Rescission and modification
- 6.17 Duration of permits
- 6.18 Amendments
- 6.19 Enforcement

[Placeholder for administrative provisions—based on local regulations]

## **7. Permit processing procedures**

Sections:

- 7.1 Permit, applicability and definitions
- 7.2 Application process
- 7.3 Application review
- 7.4 Performance assurance and guarantee

[Placeholder for permit processing procedures—based on local regulations]

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## 8. Definitions

***[Note to Reader of the October 2012 Draft: This definitions section includes the definitions contained in RCW 90.58.030 (2) & (3) and WAC 173-26-020. Additional definitions may be added to future drafts, if necessary, to define locally important terms or concepts.]***

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 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;

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- b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
  - 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. "**Amendment**" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.
8. "**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.
9. "**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.
10. "**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.
11. "**Critical areas**" as defined under chapter 36.70A RCW includes the following areas and ecosystems:
- a. Wetlands;
  - b. Areas with a critical recharging effect on aquifers used for potable waters;
  - c. Fish and wildlife habitat conservation areas;
  - d. Frequently flooded areas; and
  - e. Geologically hazardous areas.

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12. "**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.
13. "**Department**" means the state department of ecology.
14. "**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 piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.
15. "**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.
16. "**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.
17. "**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.
18. "**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.
19. "**Ecological restoration**" see definition for "restore."
20. "**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.
21. "**Extreme low tide**" means the lowest line on the land reached by a receding tide.
22. "**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

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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.
- b. 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.

23. **"Fill"** means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

24. **"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.

25. **"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; 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.

26. **"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

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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.

27. "**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.
28. "**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.
29. "**Littoral cell**" see definition for "drift cell."
30. "**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.
31. "**Local government**" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.
32. "**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.
33. "**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.
34. "**May**" means the action is acceptable, provided it conforms to the provisions of this chapter.
35. "**Must**" means a mandate; the action is required.
36. "**Nonwater-oriented uses**" means those uses that are not water-dependent, water-related, or water-enjoyment.



37. **"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;
38. **"Priority habitat"** means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:
- Comparatively high fish or wildlife density;
  - Comparatively high fish or wildlife species diversity;
  - Fish spawning habitat;
  - Important wildlife habitat;
  - Important fish or wildlife seasonal range;
  - Important fish or wildlife movement corridor;
  - Rearing and foraging habitat;
  - Important marine mammal haul-out;
  - Refugia habitat;
  - Limited availability;
  - High vulnerability to habitat alteration;
  - Unique or dependent species; or
  - Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

39. **"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 below.
- a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

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- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
  - c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
  - d. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.
40. "**Provisions**" means policies, regulations, standards, guideline criteria or environment designations.
41. "**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.
42. "**Shall**" means a mandate; the action must be done.
43. "**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.
  - 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 nonforest land use, on lands subject to the provisions of this subsection (2)(d)(ii) are not subject to additional regulations under this chapter;
44. "**Shoreline areas**" and "**shoreline jurisdiction**" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
45. "**Shoreline functions**" see definition for "ecological functions."
46. "**Shoreline master program**" see definition for "master program."

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47. **"Shoreline modifications"** means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
48. **"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.
49. **"Shorelines of statewide significance"** means the following shorelines of the state:
- a. The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;
  - b. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:
    - A. Nisqually Delta -- from DeWolf Bight to Tatsolo Point,
    - B. Birch Bay -- from Point Whitehorn to Birch Point,
    - C. Hood Canal -- from Tala Point to Foulweather Bluff,
    - D. Skagit Bay and adjacent area -- from Brown Point to Yokeko Point, and
    - E. Padilla Bay -- from March Point to William Point;
  - c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;
  - d. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
  - e. Those natural rivers or segments thereof as follows:
    - A. Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,
    - 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

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from the first three hundred square miles of drainage area, whichever is longer;

- f. Those shorelands associated with a, b, d, and e above.
50. "**Shorelines of the state**" are the total of all "shorelines" and "shorelines of statewide significance" within the state.
51. "**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.
52. "**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.
53. "**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.
54. "**Substantially degrade**" means to cause significant ecological impact.
55. "**Substantial development**" as defined by RCW 90.58.030(3)(e).
56. "**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.
57. "**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.
58. "**Water-oriented use**" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
59. "**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

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ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

60. **"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:
- 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.
61. **"Wetlands"** means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

## 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

**Appendix A. Shoreline environment designation maps**

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**Appendix B. Inventory and analysis**

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**Appendix C. Restoration plan**

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**Appendix D. Cumulative effects**

**Appendix E. Monitoring Plan**

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**Appendix F. Shoreline reach maps**

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**Appendix G. Shoreline critical areas regulations**

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