

# City of Dayton, Washington



## Shoreline Master Program

### DAYTON COMPREHENSIVE PLAN

### SHORELINE ELEMENT

**Final Adoption – ORD 2003  
September 12, 2023**

**Exhibit 1**

**Approved by the Department of Ecology on February 18, 2025  
Effective date – March 4, 2025**



This policy document was funded through a grant from the Washington State Department of Ecology.

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# **1            GENERAL PROVISIONS AND SMP ELEMENTS**

## **1.01        Adoption**

The Shoreline Master Program (SMP) was adopted on September 12, 2023, by Ordinance 2003 in accordance with the Shoreline Management Act (SMA) (chapter 90.58 RCW) and the State Shoreline Guidelines (chapter 173-26 WAC). Hereafter, it is to be commonly referred to as the SMP.

## **1.02        Purpose**

The purpose of this SMP is to:

- Promote the public health, safety, and general welfare of the community;
- Manage shorelines in a positive, effective, and equitable manner;
- Achieve no net loss of the ecological functions of the City of Dayton’s shorelines;
- Assume and carry out the responsibilities established by the Shoreline Management Act (SMA);
- Adopt and foster the policies contained in chapter 90.58 of the Revised Code of Washington (RCW), the State SMA, for shorelines of the State; and
- Provide assurance that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

To implement Dayton’s SMP, the City adopted the Shoreline Management Code (SMC) Title 15 of the Dayton Municipal Code, hereafter referred to as the Shoreline Code or SMC.

## **1.03        Shoreline Elements**

RCW 90.58.100(2) states that SMPs shall, when appropriate, include the following elements:

- |                        |                            |
|------------------------|----------------------------|
| • Economic Development | • Land Use                 |
| • Public Access        | • Conservation             |
| • Recreation           | • Historic/Cultural Values |
| • Circulation          | • Flood Hazard Reduction   |

## Shoreline Element Goals with Related Objectives and Actions

Goals and objectives have been considered in the preparation of this SMP for the City of Dayton. The goals and objectives established for these elements reflect community ideals as presented in local visioning meetings and provide the basis for policies, actions and regulations included in this SMP and Shorelines Code.

### ECONOMIC DEVELOPMENT

**Goal SMP-1** Balance the amount of land available for shoreline economic development with land available for conservation purposes to ensure opportunities for economic growth while maintaining the current ecological characteristics and functions within the shoreline jurisdiction.

- Objective SMP 1.1** Use the current state of ecological conditions, as found in the most recent Shoreline Inventory and Characterization Report, when determining riparian habitat area widths.
- Objective SMP 1.2** Craft regulations to create a preference for water-dependent and water-oriented development within the shoreline zone.

### PUBLIC ACCESS

**Goal SMP-2** Maintain and improve current levels of access to the river while protecting private property.

- Objective SMP-2.1** Provide notice when private property is crossed by levee paths.
- Action SMP-2.1.1** Inform citizens that the levee paths and stretches of the river cross private property at different points.
- Action SMP-2.1.2** Place signage along levee paths where public property stops and private property begins.
- Objective-SMP-2.2** Limit vehicle traffic along levee paths to only authorized users.
- Objective SMP-2.3** Identify opportunities for increased access.

**Commentary** - *Where shorelines policies and codes require that public access be provided, the requirement shall be construed to be limited to the extent of the lawful and constitutional authority of the City to require public access or to require the easement, fee ownership, or interest requested.*

**RECREATION**

**Goal SMP-3** Retain or improve current levels of shoreline access and walkability.

**Objective SMP-3.1** Support projects to explore, extend, and improve levee path system and shoreline access.

**Action SMP-3.1.1** Explore feasibility of pedestrian bridge near Smith Hollow School.

**Action SMP-3.1.2** Explore the following Capital Improvement Plan items from the Cooperative Park Master Plan that are located within shoreline jurisdiction:

- Fishing pond ADA accessibility
- Smith Hollow Historic Schoolhouse landscape and shoreline restoration
- Touchet River/Patit Creek path
- Historic Dayton bike/pedestrian trail extension over Touchet River
- Touchet River dike path extension (south of Main and west of river)
- Touchet River path extension north and west of Main (southwest side of river)

**LAND USE**

*See Goals SMP-2 and SMP-5.*

**CONSERVATION**

**Goal SMP-4** Identify and protect areas of high value shoreline habitat and support ongoing watershed enhancement projects in Dayton and upstream of the City to ensure that the net shoreline ecological functions are preserved or enhanced throughout the future shoreline planning period.

**Objective SMP-4.1** Discourage development or land-altering shoreline uses within areas identified as habitat conservation areas in the Shoreline Inventory and Characterization Report.

**Objective SMP-4.2** Minimize pollutants to the river in coordination with the Touchet River Total Maximum Daily Load allocation.

**Objective SMP-4.3** Support fish recovery efforts within and upstream of the City by coordinating with federal Fish and Wildlife agencies, Columbia County, and the Salmon Recovery Board on grant applications and encourage such projects in the regulations.

**Objective SMP-4.4** Explore feasibility to save dying trees near the “east end ditch” drainage.

**Objective SMP-4.5** Explore feasibility of adding native vegetation landward of levee on the west side of the Touchet River that will improve riparian habitat.

**FLOOD HAZARD REDUCTION**

**Goal SMP-5** Maintain current levels of flood control.

**Objective SMP-5.1** Maintain levee integrity to prevent flood damage.

**Action SMP-5.1.1** Follow recommended actions on levee maintenance, including dredging increased shoaling areas and controlling vegetation.

**Objective SMP-5.2** Explore public/private partnerships for debris removal in Patit Creek beyond managed area.

**Objective SMP-5.3** Do not lose U.S. Army Corps of Engineers (USACE) levee certification.

**Action SMP-5.3.1** Work with USACE to increase amount of vegetation allowed on, or at base of, levee.

**2 SMP DEFINITIONS**

The adopted SMP definitions are contained in the Shorelines Code, Dayton Municipal Code (DMC) Title 15. The SMP and Shoreline Code must be implemented according to the definitions contained in DMC Title 15.

Where definitions contained in Title 15 conflict or differ from definitions contained in the Shorelines Management Act (SMA), the definitions in chapter 90.58 RCW and WAC 173-26-020 will prevail.

**3 SHORELINE PROJECT REVIEW AND PERMITTING**

**3.01 Purpose**

This chapter defines general provisions for implementation of the SMC referenced in association with project review and permitting. The development regulations in the SMC are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, while protecting the public's interest in the shorelines' recreational and aesthetic values and the ecological function of the shoreline and riparian area.

**PERMITS**

A permit, or an exemption declared by the Shoreline Administrator, is required for any development within the Shoreline Management Area. Per WAC 173-27-040(1)(b):

*“an exemption from the substantial development permit process is not an exemption from*

*compliance with the act or the local Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable Master Program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local Master Program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the Master Program, such development or use can only be authorized by approval of a variance.”*

### **3.02 Substantial Development Permits**

Substantial development as defined by RCW 90.58.030 and the Shoreline Code shall not be undertaken by any person on Shorelines of the State without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically allowed with a letter of exemption.

### **3.03 Exemptions**

The Shoreline Administrator is authorized to approve or deny requests for written statements of exemption from the substantial development permit requirement for uses and developments within the Shoreline Management Area that are specifically listed in RCW 90.58.030(3)(e), WAC 173-27-040, and RCW 90.58.147. The written statement must indicate the specific exemption of WAC 173-27-040 that is being applied to the development and must provide a statement of the consistency of the project with the SMC, SMP and the SMA. The statement shall include any conditions required to assure compliance with the above. When filing for a written statement of exemption, only forms provided by the City may be used.

### **3.04 Variances**

The purpose of a variance is to grant relief from specific bulk or dimensional requirements set forth in the SMP and Shoreline Code where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the SMP and Shoreline Code would impose unnecessary hardships on the applicant or diminish the policies set forth in RCW 90.58.020. Variance criteria for approval are contained in Title 15. Variances are Type III actions as defined in DMC Title 10.

### **3.05 Conditional Use Permits**

The purpose of a shoreline conditional use permit is to allow greater flexibility in the application of the use policies and regulations of the SMP and Shoreline Code in a manner consistent with the policies of RCW 90.58.020. Conditional use permit approval criteria are contained in Title 15. Conditional use permits are Type III actions as defined in DMC Title 10.

### **3.06 Unclassified Uses and Activities**

All uses and activities proposed in the Shoreline Management Area that are not classified by provisions in the SMC shall require a conditional use permit.

### **3.07-.14 General Permit Processing**

1. Permits required under the SMC must be processed consistent with the provisions and the criteria of the SMC.
2. No permit will be approved unless the proposed development is consistent with the provisions of the SMP, SMC, SMA, and the rules and regulations adopted by the Washington State Department of Ecology.
3. Notice procedures, per WAC 173-27-110 and DMC Title 10, must be followed when issuing notice via newspaper, mailing to nearby property owners and posting of the property.
4. An open record pre-decision hearing is required for conditional use permits and variances. The Shoreline Administrator, per WAC 173-27-200, must file the city’s decision with the Department of Ecology for their final approval, approval with conditions, or denial.
5. The Shoreline Administrator must provide a Notice of Final Decision for all applications per chapter 10-01 DMC to all parties. Pursuant to RCW 90.58.140(6), the Shoreline Administrator must also send the final decision, including findings and conclusions to the Washington State Department of Ecology and Washington State Attorney General.
6. Appeals of the final decision by the city with regard to shoreline permits are governed by the provisions of RCW 90.58.180. Pursuant to RCW 90.58.140 review by the Shorelines Hearings Board may be available by filing a petition for review within twenty-one (21) days of the date of filing of the decision with Ecology.

*Commentary – See SMC Chapter 15.03; Administration of Development Regulations Title 10, chapter 90.58 RCW and WAC 173-27-110 for further details regarding permit processing, notices, and appeals.*

## **4 SHORELINE MANAGEMENT AREAS**

### **4.01 Shoreline Environment Designations**

The Shoreline Management Area for the City of Dayton includes:

1. The area between the ordinary high water mark (OHWM) and two hundred (200) feet landward;
2. Areas extended beyond 200 feet due to the critical areas on the land; and
3. The river between the banks’ OHWMs.

These areas as separated into six environment designations. These designations, listed below,

contain unique development and use standards tailored to the underlying shoreline conditions.

#### **4.01 A. AQUATIC ENVIRONMENT (AE)**

**Purpose:** The purpose of the "aquatic" environment (AE) is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

**Designation Criteria:** Assign an "aquatic" environment designation to lands waterward of the OHWM. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

#### **Management Policies for AE:**

**Policy SMP-1** Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

**Policy SMP-2** The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

**Policy SMP-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.

**Policy SMP-4** 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.

**Policy SMP-5** Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

**Policy SMP-6** Local governments should reserve shoreline space for shoreline-preferred uses. Such planning should consider upland and in-water uses, water quality, and presence of aquatic vegetation, critical habitats, aesthetics, public access, and views.

#### **4.01 B. HIGH INTENSITY ENVIRONMENT (HIE)**

**Purpose:** The purpose of the "high-intensity" environment (HIE) 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.

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

**Management Policies for HIE:**

**Policy SMP-7** 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. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-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.

**Policy SMP-8** 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.

**Policy SMP-9** Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.

**Policy SMP-10** Where feasible, visual and physical public access should be required.

**Policy SMP-11** Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetation buffers.

**4.01 C. NATURAL ENVIRONMENT (NE)**

**Purpose:** The purpose of the "natural" environment (NE) is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions 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. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

**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, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

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. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

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 that 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 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.

**Management Policies for NE:**

**Policy SMP-12** Any use that would substantially degrade the ecological function or natural character of the shoreline area should not be allowed.

**Policy SMP-13** The following new uses should not be allowed in the "natural" environment:

- a. Commercial uses
- b. Industrial uses
- c. Nonwater-oriented uses
- d. Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines

**Policy SMP-14** Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

**Policy SMP-15** Agricultural 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 ensure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

**Policy SMP-16** 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.

**Policy SMP-17** 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, to achieve its intended purpose, 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.

**Policy SMP-18** 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.

**Policy SMP-19** Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

**Policy SMP-20** Local governments should reserve shoreline space for shoreline-preferred uses. Such planning should consider upland and in-water uses, water quality, and presence of aquatic vegetation, critical habitats, aesthetics, public access and views.

#### **4.01 D. SHORELINE COMMERCIAL ENVIRONMENT (SCE)**

**Purpose:** The "shoreline commercial" environment (SCE) is designed to accommodate existing and future commercial development and accessory structures. Commercial parcels west of Main Street, extending to Commercial Street on the north bank of the Touchet River and from Commercial Street to Willow Street on the south bank, are placed within the SCE environment.

**Designation Criteria:** Assign a SCE designation to shoreline areas if they are inside existing commercial areas and to land zoned for commercial growth. Include multi-lot and single lot commercial development.

**Management Policies for SCE:**

**Policy SMP-21** Regulatory 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 ensure 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, and other comprehensive planning considerations.

**Policy SMP-22** Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

**Policy SMP-23** Standards should be established for detailing the range of shoreline modifications allowed within the "shoreline commercial" environment. These standards should ensure that development, or use patterns, do not result in a reduction of shoreline ecological functions or further degrade other shoreline values.

**Policy SMP-24** The shoreline should be monitored for erosion, either from activities occurring on land or on the water. Action should be taken when such erosion occurs to reduce negative effects.

**Policy SMP-25** Preference shall be given first to water-dependent commercial uses over nonwater-dependent commercial uses and second to water-related commercial uses over nonwater-dependent commercial uses.

**4.01 E. SHORELINE RESIDENTIAL ENVIRONMENT (SRE)**

**Purpose:** The "shoreline residential" environment (SRE) is designed to accommodate existing, small-lot residential development and accessory structures. Residential development north of the Touchet River and west of Commercial Street to the western City limit, plus a portion of development south of the Touchet River immediately west of the Commercial district, is placed within the SRE environment. The confluence of Patit Creek and the Touchet River is included within the SRE environment.

**Designation Criteria:** Assign a SRE designation to shoreline areas if they are inside urban growth areas, predominantly small-lot single-family or multi-family residential development, or are planned and platted for such residential development.

**Management Policies for SRE:**

**Policy SMP-26** Regulatory 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, and other comprehensive planning considerations.

**Policy SMP-27** Multifamily and multi-lot residential and recreational developments are not preferred uses in the SRE.

**Policy SMP-28** Standards should be established for detailing the range of shoreline modifications allowed within the SRE. These standards should ensure that development, or use patterns, do not result in a reduction of shoreline ecological functions or further degrade other shoreline values.

**Policy SMP-29** The shoreline should be monitored for erosion, either from activities occurring on land or on the water. Action should be taken when such erosion occurs to reduce negative effects.

#### **4.01 F. URBAN CONSERVANCY ENVIRONMENT (UCE)**

**Purpose:** The “urban conservancy” environment (UCE) is designed to provide for public access, either physical or view, while maintaining or improving the ecological functions of the shoreline. The purpose of the UCE 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.

**Designation Criteria:** Assign a UCE designation to shoreline areas appropriate and planned for development that are 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 "limited areas of more intensive rural development" if any of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses;
2. They are open space, floodplain 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. Undesignated shoreline areas are automatically placed in the UCE until a determination is made for permanent assignment.

#### **Management Policies for UCE:**

**Policy SMP-30** 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.

**Policy SMP-31** 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.

**Policy SMP-32** Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

**Policy SMP-33** Water-oriented uses should be given priority over non-water-oriented uses.

#### **4.02 Management of Riparian Habitat Areas**

Management of the State’s shorelines is described in the following policy statements in the Act, RCW 90.58.020, “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.” To further clarify this policy, WAC 173-28-186(8) states, “the act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the Shoreline Substantial Development Permit requirement of the act but also by past actions, unregulated activities, and development that is exempt from the act’s requirements.”

To provide for a higher level of protection of the ecological functions of the shoreline within the City, buffers of the Touchet River, herein called riparian habitat areas, have been established for each environment designation. These riparian habitat areas are based upon an analysis of the impacts of development on shorelines and the available science. For a deeper understanding of the impacts that development has on shorelines and how it is expected to affect the City of Dayton’s shorelines, please consult the Cumulative Impacts Analysis report prepared for this SMP update.

Multiple factors are considered when determining the proper width for the riparian habitat areas , which are described in the Shoreline Inventory and Characterization Report.

Based upon a review of these factors, the City has determined that different riparian habitat area widths are appropriate for each individual Shoreline Environment Designation in order to preserve the ecological condition of the Touchet River and its shorelines:

**Riparian Habitat Area Minimum Widths**

<b>Environment Designation</b>	<b>Riparian Habitat Area Width</b>
Aquatic	N/A
High Intensity	50 ft. Shoreward from OHWM
Natural	200 ft. Shoreward from OHWM
Shoreline Commercial	75 ft. Shoreward from OHWM <sup>(1)</sup>
Shoreline Residential	100 ft. Shoreward from OHWM <sup>(1)</sup>
Urban Conservancy	125 ft. Shoreward from OHWM <sup>(1)</sup>

<sup>(1)</sup> Mitigation required for any development within the riparian habitat area.

**4.03 City of Dayton Environment Designations Map**

The Environment Designation Map is adopted as part of the Shoreline Management Code (SMC), Title 15. It is also contained within Appendix A of the SMP.

**5 GENERAL SHORELINE POLICIES**

**5.01 Background**

The General Policies and Regulations apply to all uses and activities that may occur within the City’s Shoreline Management Area regardless of the SMP Environment Designation. These policies and regulations provide the overall framework for the management of the shoreline. Use these general regulations in conjunction with chapter 15-06 DMC, Specific Use and Modification Policies and Regulations.

Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Act sets specific preferences for uses of Shorelines of Statewide Significance. RCW 90.58.020 states:

*“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.”

Second, the Act calls for a higher level of effort when implementing the Act’s objectives on Shorelines of Statewide Significance. RCW 90.58.090(5) states:

*“The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest.”*

Optimum implementation involves special emphasis on statewide objectives and consultation with State agencies. The State’s interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

## **5.02 Environmental Policies**

The Act is concerned with the environmental impacts that any development, use, or activity may have on the Shorelines of the State. Development and certain uses or activities within the Shoreline Management Area may degrade the shoreline and its waters and may damage or inhibit important species and their habitat.

### **5.02 A. General Environment**

**Policy SMP-34** The adverse impacts of shoreline developments and activities on the natural environment, critical areas, and habitats for proposed, threatened, and endangered species should be avoided and, if necessary, minimized and mitigated during all phases of development (e.g., design, construction, operation, and management).

**Policy SMP-35** After impacts have been avoided and, if necessary, minimized to the greatest extent possible, remaining adverse impacts should be mitigated with an amount of restoration or other mitigation action sufficient to replace the adversely impacted resources.

**Policy SMP-36** In cases where on-site mitigation would be unable to compensate for expected impacts, on-site or off-site compensatory actions should be required.

**Policy SMP-37** Shoreline developments that protect and/or contribute to the long-term restoration of habitat for proposed, threatened, and endangered species are consistent with the fundamental goals of this SMP. Shoreline developments that propose to enhance critical areas, other natural characteristics, resources of the shoreline, and/or provide public access and recreational opportunities to the shoreline are consistent with the fundamental goals of this SMP and should be encouraged.

**5.02 B. Water**

**Policy SMP-38** Shoreline development and activities should result in no net loss of ecological functions.

**Policy SMP-39** Development and regulated activities should avoid and minimize impacts to hydro geologic processes, wetlands, surface water drainage, and groundwater recharge.

**Policy SMP-40** Measures should be incorporated into the development, use, or activity to protect water bodies and wetlands from all sources of pollution, including, but not limited to, sediment and silt, petrochemicals, and wastes and dredge spoils.

**Policy SMP-41** Adequate provisions to prevent water runoff from contaminating surface and groundwater should be included in development design. The Shoreline Administrator may specify the method of surface water control and maintenance programs. Surface water control must comply with the adopted stormwater manual.

**Policy SMP-42** All measures for the treatment of surface water runoff for the purpose of maintaining and/or enhancing water quality should be conducted on-site. Off-site treatment facilities may be considered if on-site treatment is not feasible.

**Policy SMP-43** Point and non-point source pollution should be managed on a basin-wide basis to protect water quality and support the goals of the water quality implementation plan to maintain shoreline ecological functions.

**5.02 C. Plants and Animals**

**Policy SMP-44** In general, this Shoreline Master Program should strive to protect and restore native plant and fish resources along the Touchet River within the City.

**Policy SMP-45** Shoreline development, uses, and activities shall be:

- a. Located and conducted in a manner that avoids and minimizes impacts to existing ecological values and natural resources of the area, conserves properly functioning conditions, and ensures no net loss of shoreline ecological functions;
- b. Scheduled to protect biological productivity and to minimize interference with fish and wildlife resources including migration, spawning/nesting, and rearing activity;

- c. Designed to avoid the removal of trees in shorelines wherever practicable, and to minimize the removal of other woody vegetation. Where vegetation in the riparian habitat area is removed, measures to mitigate the loss of vegetation shall be implemented to ensure no net loss; and
- d. Designed to minimize impacts to the natural character of the shoreline as much as possible.

**5.02 D. Noise**

**Policy SMP-46** Noise levels should not interfere with the quiet enjoyment of the shoreline.

**5.02 E. Public Health**

**Policy SMP-47** All development within the regulated shoreline should be located, constructed, and operated so as not to be a hazard to public health and safety.

**5.02 F. Land Use**

**Policy SMP-48** The size of the shoreline development and the intensity of the use should be compatible with the surrounding environment and uses. The City may prescribe operation intensity, landscaping, and screening standards to ensure compatibility with the character and features of the surrounding area.

**Policy SMP-49** Shoreline developments should minimize land use conflicts to properties adjacent to, upstream, and downstream of the proposed site.

**Policy SMP-50** Land uses not allowed by the underlying zoning regulations should be prohibited.

**5.02 G. Aesthetic**

**Policy SMP-51** Where practical, development should be designed to minimize the negative aesthetic impact structures have on the shoreline by avoiding placement of service areas, parking lots, and/or view-blocking structures adjacent to the shoreline. Consideration should be given to views both from and towards the water.

**5.02 H. Historical/Cultural Policies**

Provisions for historic, cultural, and archaeological site preservation, restoration, and education should be incorporated in site development plans whenever compatible and possible. Cooperation among involved private and public parties is encouraged to achieve this Program’s Archaeological, Historical, and Cultural Element goals and objectives.

Any proposed site development or associated site demolition work should be planned and carried out to avoid impacts to the protected resource. Impacts to neighboring properties and other shoreline uses should be limited.

Owners of property containing previously identified historic, cultural, or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies, such as the affected Tribe(s), Washington State Department of Archaeology and Historic Preservation (DAHP), and others may have ample time to assess the site and make arrangements to preserve historical, cultural, and archaeological findings.

**Policy SMP-52** If development or demolition is proposed adjacent to an identified historical, cultural, or archaeological site, then the proposed development should be designed and operated to be compatible with continued protection of the identified site.

**Policy SMP-53** Historical, cultural, or archaeological sites should be protected in collaboration with appropriate tribal, state, federal, and local governments. Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.

**Policy SMP-54** When or where appropriate, access to historical, cultural, or archaeological sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

### 5.03 Critical Area Policies within the Shoreline Management Area

#### 5.03 A. Development

**Policy SMP-55** Development should strive to:

- a. Preserve and protect unique, rare, and fragile natural and man-made features and wildlife habitats;
- b. Enhance the diversity of aquatic life, wildlife, and habitat within the Shoreline Management Area;
- c. Conserve and maintain designated open spaces for ecological, educational, and recreational purposes;
- d. Recognize that the interest and concern of the public is essential to the improvement of the environment, and sponsor and support public information programs; and
- e. Discourage intensive development of shoreline areas that are identified as hazardous or environmentally sensitive.

**Commentary** - *The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, steep slopes, spawning areas).*

#### 5.03 B. Riparian Habitat Areas

The SMP establishes riparian habitat areas to preserve the ecological functions within the highest functioning portions of the shoreline jurisdiction. The riparian habitat areas are intended to restrict land alteration and disruptive uses within sensitive shoreline habitat areas that provide key ecological functions, as identified in the City of Dayton Shoreline Inventory and Characterization Report. The riparian habitat areas are located between the OHWM and the developable area upland beyond the riparian habitat areas. The widths of riparian habitat areas are based upon the underlying environment designations, which are based upon existing conditions and the goals and policies of this SMP.

**Policy SMP-56** The establishment of riparian habitat areas will not affect existing development. New modifications to existing development in the shorelines jurisdiction may be affected, depending on the proposed activity and distance from the OHWM.

### 5.03 C. Critical Areas

**Policy SMP-57** Critical areas within shoreline jurisdiction are regulated under DMC Title 15. .

## 5.04 Public Access

Public access to the shoreline is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of and components to public access, such as picnic areas, pathways and trails, promenades, street ends, ingress, and egress.

The Act requires, in RCW 90.58.100(2)(b), that shoreline master programs shall include, when appropriate, the following: *“A public access element making provisions for public access to publicly owned areas.”* The City encourages private landowners to provide public access opportunities when appropriate.

**Policy SMP-58** Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.

**Policy SMP-59** Public access to the shoreline should be sensitive to the unique characteristics of the shoreline, should preserve the natural character and quality of the environment, and should assure no net loss of ecological functions.

**Policy SMP-60** Where appropriate, water-oriented public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment.

**Policy SMP-61** Except for access to the water, the preferred location for placement of public access trails is outside the riparian habitat area. If that is not possible, the trails should be as close to the furthest landward edge of the riparian habitat area as practical, and mitigation is required to replace any vegetation. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and shall be designed for accessibility by

people with disabilities. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.

**Policy SMP-62** Public access afforded by public right-of-way street and alley ends adjacent to the shoreline should be preserved, maintained, and enhanced.

**Policy SMP-63** Public access on private property, when provided, should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy, which may include consideration by the City of legal and reasonable mitigating circumstances or variances from otherwise applicable land use or development standards, such as providing a physical separation to reinforce the distinction between public and private space, providing adequate space, through screening with landscape planting or fences, or other means.

**Policy SMP-64** Public views from the shoreline upland areas should be enhanced and preserved.

**Policy SMP-65** Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.

**Policy SMP-66** Public access facilities should be maintained to provide clean, safe access, and to protect the environment.

**Policy SMP-67** Public access to publicly owned shoreline areas should be increased through acquisition of rights or interests in real property located in shoreline areas where topography, natural, cultural, and aesthetic features warrant. Commercially reasonable means should be used when acquiring such rights or interests.

**Policy SMP-68** Development should be constructed as far landward as possible.

## **6 SPECIFIC SHORELINE USE POLICIES**

### **6.01 General Overview**

Specific shoreline use policies are more detailed than those listed in General Policies. These policies establish the shoreline management principles that apply to each type of use and serve as a bridge between the various elements listed in Section 1.03 and the SMC.

Shoreline modification policies and regulations are intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

The following policies apply to specific types of development that may be proposed in the Shoreline Management Area of the City. A proposal can consist of more than one type of development. In addition, all specific shoreline development must be consistent with the following SMP Shoreline Environment Designations, the goals and objectives of the SMC, and

the general policies and regulations contained in both the SMP and SMC.

## **6.02 Existing Structures**

New SMC regulations are not retroactive, so legally established residential and industrial structures can remain in place. Local zoning regulations and the SMC will regulate whether an addition to an existing and legally established residential or industrial structure located in the Shoreline Management Area may be built, where it can be built, and what mitigation measures may be required. Mitigation measures will be required for any development within the Shoreline Management Area in order to offset impacts of new development and achieve the no net loss standard.

## **6.03 Existing Uses**

Uses that are not allowed under the new SMC but exist in relation to legally established residential or industrial structures become nonconforming uses at the time of enactment of the SMP and SMC.

## **6.04 Standards for Permitting within Shoreline Environment Designations**

The specific types of permitting and processing for uses and development are contained in SMC 15-06.050. The permit processes are as follows:

**SD:** Shorelines Substantial Development permit required.

**CU:** Shorelines Conditional Use permit required.

**X:** Prohibited and not eligible for Shorelines Variance or Shorelines Conditional Use permit.

**E:** Written Statement of Shorelines Exemption required.

*Need for Shorelines Variances is determined by type and extent of non-compliance with SMC*

## **6.05 Shoreline Stabilization (Armoring)**

### **6.06 A. Shoreline Modification – General**

Shoreline modification involves developments that provide bank stabilization or flood control. The purpose of the modification is to reduce adverse impacts caused by natural processes, such as current, flood, tides, wind, or wave action. Shoreline stabilization includes all structural and nonstructural means to reduce flooding and/or erosion of banks.

Nonstructural methods include setbacks of permanent and temporary structures; relocation of the structure to be protected; groundwater management; planning; bioengineering, or “soft” engineered solutions; and regulatory measures to avoid the need for structural stabilization.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as

concrete bulkheads, while "soft" structural measures rely on natural materials such as biotechnical vegetation or shore enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. New structural shoreline stabilization also often results in vegetation removal, as well as damage to near shore habitat and shoreline corridors. Measures ranging from soft to hard include the following:

- Vegetation enhancement
- Upland drainage control
- Bio-technical measures
- Beach enhancement
- Anchor trees
- Gravel placement
- Rock revetments
- Retaining walls and bluff walls
- Bulkheads

Note: As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures; the replenishment of sand or other material that has been washed away; or replacement of less than twenty percent (20%) of the structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis.

Construction that causes significant ecological impacts is not considered normal maintenance and repair. "Replacement" means the construction of a new structure to perform a shoreline stabilization function that an existing structure can no longer adequately perform. Additions to existing shoreline stabilization measures shall be considered new structures, with the exception that levee length and height may be increased in the SCE, SRE, and UCE designation if a geotechnical report concludes that it is necessary or promotes better design.

The following policies and regulations apply to activities that modify the shoreline for the purposes of preventing erosion or flooding. Following these general requirements, specific policies and regulations are provided for the following:

- Bulkheads
- Revetments
- Land Disturbing Activities
- Landfilling
- Dredging and Dredge Material Disposal

**Policy SMP-69** Biostabilization and other bank stabilization measures should be located, designed, and constructed primarily to prevent damage to the existing primary structure.

**Policy SMP-70** All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works. New development requiring shoreline stabilization shall be discouraged in areas where no preexisting shoreline stabilization is present.

**Policy SMP-71** Shoreline modifications are only allowed for mitigation or enhancement purposes, or when and where there is a demonstrated necessity to support or protect an existing primary structure or legally existing shoreline use that is otherwise in danger of loss or substantial damage.

**Policy SMP-72** Proposals for shoreline modifications should be designed to protect life and property without impacting shoreline resources.

**Policy SMP-73** Shoreline modifications that are natural in appearance, compatible with ongoing shoreline processes, and that provide flexibility for long-term management, such as protective berms or vegetative stabilization, should be encouraged over structural means such as concrete bulkheads or extensive revetments, where feasible.

**Policy SMP-74** Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not be able to withstand the erosive forces of the current and waves.

**Policy SMP-75** The design of bank stabilization or protection works should provide for the long-term use of shoreline resources and public access to public shorelines.

**Policy SMP-76** In the design of publicly financed or subsidized works, consideration should be given to providing pedestrian access to shorelines for low-impact outdoor recreation.

**Policy SMP-77** New flood protection measures should be placed landward of the natural flood boundary and landward of any wetlands, which are directly interrelated and inter-dependent with water bodies.

**Policy SMP-78** If through construction and/or maintenance of shoreline modification developments, the loss of vegetation and wildlife habitat will occur, mitigation should be required.

#### **6.06 B. Bulkheads**

Bulkheads are walls usually constructed parallel to the shore, whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

The Act only exempts the construction of a normal protective bulkhead associated with an

existing single-family residence from the substantial development permit requirement. However, these structures are required to comply with all the policies and development standards of this Shoreline Master Program.

**Policy SMP-79** Bulkheads constructed from natural materials, such as protective berms, beach enhancement, or vegetative stabilization are strongly preferred over structural bulkheads constructed from materials such as steel, wood, or concrete. Proposals for bulkheads should demonstrate that natural methods are unworkable.

**Policy SMP-80** Bulkheads should be located, designed, and constructed primarily to prevent damage to the existing primary structure. New development that requires bulkheads is not permitted except as specifically provided under this Shoreline Master Program.

**Policy SMP-81** Shoreline uses should be located in a manner so that a bulkhead is not likely to become necessary in the future.

**Policy SMP-82** Bulkheads should not be approved as a solution to geo-physical problems such as mass slope failure, sloughing, or landslides. Bulkheads should only be approved for the purposes of preventing bank erosion.

#### **6.06 C. Revetment**

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand bags, paving or building blocks, or other systems and materials. The principal features of a revetment, regardless of type, is a heavy armor layer, a filter layer, and toe protection. The extensive levee system along the Touchet River is a revetment.

**Policy SMP-83** The use of armored structural revetments should be limited to situations where it is determined that nonstructural solutions such as bioengineering, setbacks, buffers or any combination thereof, will not provide sufficient shoreline stabilization.

**Policy SMP-84** Revetments should be designed, improved, and maintained to provide public access whenever possible.

#### **6.06 D. Land Disturbing Activity**

**Policy SMP-85** Land disturbing activities should only be allowed in association with a permitted shoreline development.

**Policy SMP-86** Land disturbing activities should be limited to the minimum necessary to accommodate the shoreline development or a landscape plan developed in conjunction with permitted shoreline development.

**Policy SMP-87** Erosion should be prevented and sediment should not enter waters of the

state.

## 6.06 Fill

Landfilling is the placement of soil, rock, existing sediment or other material (excluding solid waste) in order to raise the elevation of upland areas or to create new land area along the shoreline below the OHWM. This section includes policies and regulations that apply to all areas within the shoreline jurisdiction.

**Policy SMP-88** The perimeter of landfilling should be designed to avoid or eliminate erosion and sedimentation impacts, during both initial landfilling activities and over time.

**Policy SMP-89** Where permitted, landfilling should be the minimum necessary to provide for the proposed use and should be permitted only when conducted in conjunction with a specific development proposal that is permitted by the Shoreline Master Program. Speculative landfilling activity should be prohibited.

## 6.07 Dredging and Dredge Material Disposal

**Policy SMP-90** Dredging waterward of the OHWM for the primary purpose of obtaining fill material is prohibited.

**Policy SMP-91** Dredging waterward of the OHWM for the primary purpose of shoreline enhancement requires a substantial development permit.

**Policy SMP-92** Dredging waterward of the OHWM for the primary purpose of removal of flood hazard debris requires a substantial development permit.

**Policy SMP-93** Dredging operations should be planned and conducted to minimize interference with navigation, avoid creating adverse impacts on other shoreline uses, properties, and ecological shoreline functions and values, and avoid adverse impacts to habitat areas and fish species.

**Policy SMP-94** Dredge spoil disposal in water bodies shall be prohibited except for shoreline enhancement or habitat improvement projects.

**Policy SMP-95** Dredge spoil disposal on land should occur outside the Shoreline Management Area.

## 6.08 Vegetation Management

Native plants help to reduce erosion by protecting soils from the erosive forces of the wind, rain, and waves. The roots of plants help to hold soils in place, reduce frost penetration, reduce the force and quantity of precipitation falling on and eroding the soil, reduce surface/storm water

volumes by evapo-transpiration, and increase the absorptive capacity of the soil. Native vegetation also shades the river to keep water cool for native fish and serves as habitat and food for a variety of terrestrial species.

As detailed in WAC 173-26-221(5)(b), the SMP and SMC shall include planning provisions that address vegetation conservation and restoration and regulatory provisions that address conservation of vegetation as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

**Policy SMP-96** Conservation of native vegetation within the riparian habitat area is necessary to protect the local soils as well as provide habitat and food for resident plant and animal species.

**Policy SMP-97** Care should always be taken when developing within the riparian habitat area to not disturb the root systems of native plants, shrubs, and trees.

**Policy SMP-98** Development within the riparian habitat area may be allowed depending on the nature of the work.

**Policy SMP-99** For every tree cut down within the riparian habitat area, it is preferred that the trunk shall remain on the ground to serve as nurse log habitat. Dead trees and stumps should be allowed to remain since they are desirable elements in the shoreland environment.

**Policy SMP-100** Vegetation removal along existing utility corridors and levees should be allowed under ongoing maintenance activities. However, the City should continue to participate in the regional levee roundtables and seek updates from the USACE on alternate levee maintenance strategies that would decrease the amount of vegetation that needs to be removed around the levees for continued flood certification.

## 6.09 Boating Facilities

Facilities in support of motorized boats, including boat launch ramps, wet and dry boat storage, and related sales and service for pleasure and commercial watercraft are not allowed.

**Policy SMP-101** Facilities supporting motorized boats can have a significant impact on habitat and are not allowed.

**Policy SMP-102** Non-motorized watercraft impacts must be reviewed thoroughly before they may be permitted in the shoreline jurisdiction.

**Policy SMP-103** Existing occasional use trails that are used for the launching of portable, non-motorized watercraft may be maintained as is as long as such trails are not expanded without a Shorelines Substantial Development Permit.

## 6.10 Industrial Development

**Policy SMP-104** Priority of any industrial development should be given to water-dependent uses.

**Policy SMP-105** Over-the-water industrial development should be prohibited.

**Policy SMP-106** Industrial development in the Shoreline Management Area should include landscaping to enhance the shoreline area.

**Policy SMP-107** Preference shall be given first to water-dependent industrial uses over nonwater-dependent industrial uses and second to water-related industrial uses over nonwater-oriented industrial uses.

## 6.11 Mining

Mining is prohibited in all shoreline environments.

## 6.12 Recreational Development

Recreational development provides for low-impact activities, such as hiking, photography, viewing, and fishing; or more intensive uses such as parks. This section applies to both publicly and privately owned shoreline facilities.

**Policy SMP-108** The coordination of local, state, and federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted parks, recreation, and open space plans.

**Policy SMP-109** Parks, recreation areas, and public access points, such as hiking paths, bicycle paths, and scenic drives should be linked.

**Policy SMP-110** Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.

**Policy SMP-111** All recreational developments should make adequate provisions for:

- a. Vehicular and pedestrian access, both on-site and off-site;
- b. Proper water, solid waste, and sewage disposal methods;
- c. Security and fire protection for the use itself and for any use-related impacts to adjacent private property;
- d. The prevention of overflow and trespass onto adjacent properties; and

- e. Buffering of such development from adjacent private property or natural areas.

## **6.13 Residential Development**

### **6.13 A. General**

1. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.
2. A substantial development permit is not required for construction of a single-family residence, if the home is being built by an owner, lessee, or contract purchaser for personal and/or family use. Single-family residential construction and accessory structures must otherwise conform to this Shoreline Master Program.
3. A variance or conditional use permit may be required for residential development for situations specified in the SMP.
4. Uses and facilities associated with residential development, which are identified as separate use activities in this SMP, are subject to the regulations established for those uses in this section. Land disturbing activities may be exempted from the substantial development permit requirement, provided activities are associated with an exempted single family residence are confined to the construction site and excavation does not exceed the currently resolved State Environmental Policy Act categorical exemption amounts as determined by the City.
5. Minor maintenance and/or repair of lawfully established structures that does not involve additional construction, earthwork, or clearing are allowed without a shoreline permit or letter of exemption. Examples include painting, trim or facing replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption in DMC 15-03.030.

### **6.13 B. Residential Development Policies**

**Policy SMP-112** In accordance with the Public Access requirements in DMC 15-05.040, residential developments of more than four (4) dwelling units should provide dedicated and improved public access to the shoreline.

**Policy SMP-113** Residential development and accessory uses should be prohibited over the water.

**Policy SMP-114** New subdivisions should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.

**Policy SMP-115** In all new residential and recreational developments with five (5) or more dwelling units, joint-use shoreline facilities should be required and accessible to the public.

**Policy SMP-116** Accessory uses and structures should be designed and located to blend into the site as much as possible. Accessory uses and structures should be located landward of the principal residence when feasible.

## 6.14 Signs

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification, or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

**Policy SMP-117** Signs should be designed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.

**Policy SMP-118** Signs should not block or otherwise interfere with visual access to the water or shorelands.

## 6.15 Parking

**Policy SMP-119** Parking within the Shoreline Management Area should be minimized.

**Policy SMP-120** Parking within the Shoreline Management Area should directly serve an adjacent permitted use on the same or adjacent property.

**Policy SMP-121** Parking in the Shoreline Management Area should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, private property, vegetation and habitat maintenance.

**Policy SMP-122** Landscaping should consist of native vegetation in order to enhance the habitat opportunities within the shoreline area and contribute to the total no net loss provisions of the Shoreline Environment Designation.

## 6.16 Transportation

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, and railroad facilities.

**Policy SMP-123** New roads within the Shoreline Management Area should be minimized and located as close to the landward edge of the area within jurisdiction as feasible. New roads within the riparian habitat area are prohibited.

**Policy SMP-124** Roads and railroad locations should be planned to fit the topographical characteristics of the shoreline such that alteration of natural conditions is minimized.

**Policy SMP-125** Pedestrian and bicycle trails should be encouraged.

**Policy SMP-126** When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.

**Policy SMP-127** Alternatives that minimize new roads or road expansion in the Shoreline Management Area should be considered as a first option.

**Policy SMP-128** Joint use of transportation corridors within the Shoreline Management Area for roads, utilities, and motorized forms of transportation should be encouraged.

**Policy SMP-129** New roads should be designed to accommodate bicyclists, pedestrians, and transit, where feasible.

## **6.17 Railroads and Rail Corridors**

See 6.16- Transportation.

## **6.18 Nonresidential Development**

Nonresidential development includes a variety of development types, some of which may be located in one or more of the environment designations. Industrial Development is a type of non-residential development and is further regulated in DMC 15-06.240.

**Policy SMP-130** Priority of any nonresidential development should be given to water-dependent and water-enjoyment uses. Examples of allowed uses may include restaurants that provide a water view to customers, motels and hotels that provide walking areas for the public along the shoreline, and office buildings and retail sales buildings that have a waterfront theme with public access to the shore or water views.

**Policy SMP-131** Over-the-water nonresidential development should be prohibited.

**Policy SMP-132** Nonresidential development should be required to provide on-site physical or visual access to the shoreline, or offer other opportunities for the public to enjoy Shorelines of Statewide Significance. If on-site access cannot be provided, off-site access should be required. Off-site access could be procured through the purchase of land or an easement at a location appropriate to provide the access deemed necessary. Nonresidential developments should include multiple use concepts such as open space and recreation.

**Policy SMP-133** Nonresidential development in the Shoreline Management Area should include landscaping to enhance the shoreline area.

## 6.19 Utilities

Primary utilities include substations, pump stations, treatment plants, sanitary sewer outfalls and lift stations, electrical transmission lines greater than fifty-five thousand (55,000) volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, gas and petroleum transmission lines, and submarine telecommunications cables.

Accessory utilities include local public water, electric, natural gas distribution, public sewer collection, cable and telephone service, and appurtenances.

**Policy SMP-134** Utilities should utilize existing transportation and utility sites, rights-of-way, and corridors whenever possible. Joint use of rights-of-way and corridors should be encouraged.

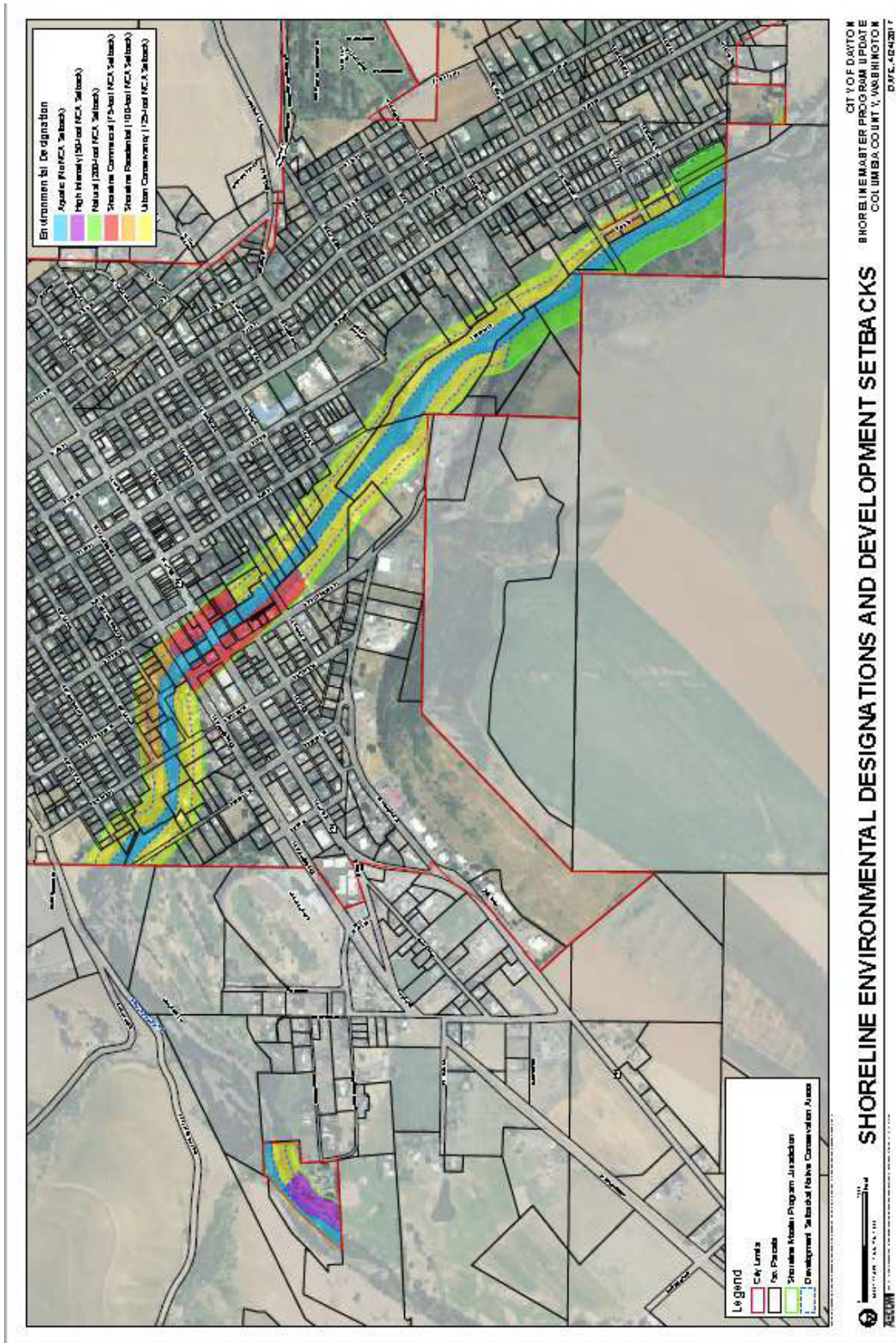
**Policy SMP-135** Unless no other feasible alternative exists, utilities should be prohibited in the Shoreline Management Area, wetlands, and other critical areas.

**Policy SMP-136** New utility facilities should be located so as not to require extensive shoreline modifications.

**Policy SMP-137** Whenever possible, utilities should be placed underground or alongside or under bridges. Above ground placement of electrical transmission lines with a capacity of fifty-five thousand (55,000) volts or more is allowed if no other feasible alternative exists.

**Policy SMP-138** Solid waste disposal activities and facilities should be prohibited in the Shoreline Management Area.

# APPENDIX A



## **Title 15 SHORELINE MANAGEMENT CODE**

### ***CHAPTER 15-01. GENERAL PROVISIONS***

#### **15-01.010. Title.**

Title 15 shall be known as the City of Dayton's Shoreline Management Code, hereafter referred to as the Shoreline Code or SMC.

#### **15-01.020. Authority.**

The shorelines code is adopted in accordance with the Shoreline Management Act (SMA) (RCW Chapter 90.58), the State Shoreline Guidelines (chapter 173-26 WAC), and Growth Management Act (RCW Chapter 36.70A).

#### **15-01.030. Purpose and relation to the SMP.**

- A. The purpose of this title is to:
1. Promote the public health, safety, and general welfare of the community;
  2. Manage shorelines in a positive, effective, and equitable manner;
  3. Achieve no net loss of the ecological functions of the City of Dayton's shorelines;
  4. Assume and carry out the responsibilities established by the Shoreline Management Act (SMA);
  5. Implement policies contained in RCW Chapter 90.58, the state SMA, for shorelines of the state, and shorelines master program (SMP) as an element of the Dayton Comprehensive Plan; and
  6. Assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.
- B. The goals, objectives and policies contained in the City of Dayton Shoreline Master Program as an element of the comprehensive plan adopted on September 12, 2023 are hereby adopted and included by reference.

#### **15-01.040. Reserved.**

#### **15-01.050. Shoreline Administrator.**

- A. The planning director, or designee, is the Shoreline Administrator, and is vested with authority to:
1. Administer the shoreline management code (SMC) and shoreline master program (SMP);
  2. Approve, approve with conditions, or deny shoreline permits;
  3. Grant written exemptions from substantial development permits;
  4. Determine compliance with RCW Chapter 43.21C, the State Environmental Policy Act; and
  5. Adopt rules that support and enforce the provisions of this title.
- B. The Shoreline Administrator's duties and responsibilities include:

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1. Making administrative decisions and interpretations of the policies and regulations of the shoreline code, SMP and the SMA;
2. Developing and proposing amendments to this shoreline code and SMP to more effectively and equitably achieve its goals and policies;
3. Seeking remedies for violations of this shoreline code, the provisions of the SMA, or the conditions of substantial development permits, conditional use permits, and variances issued by the city; and
4. Forwarding shoreline permits to federal and Washington State Departments, including the Washington State Department of Ecology (Ecology), the Washington State Department of Fish and Wildlife (WDFW), and the USACE for action.

**15-01.060. Applicability.**

- A. The regulations of this title apply to the land area beneath the Touchet River, associated wetlands, and lands that extend 200 feet landward in a perpendicular direction from either shore. This area shall be known as the shoreline management area.
- B. Nothing in this shoreline code shall constitute authority for requiring the removal of any structures, improvements, fills, or developments placed in managed waters prior to the adoption of the shoreline code and maintained in conformance with this title, SMP and the SMA.
- C. This SMP applies to all development, the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals or vegetation; 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 of the state subject to Chapter 90.58 RCW at any stage of water level. Development does not include the following activities:
  1. Interior building improvements;
  2. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
  3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding;
  4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections;
  5. Dismantling or removing structures if there is no other associated development or redevelopment;
  6. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70A.305, or to Ecology when it conducts a remedial action under RCW 70A.305;
  7. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit;
  8. Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356;
  9. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045 and RCW 43.21K;
  10. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to RCW 80.50; and

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11. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of RCW 90.58.
- D. Uses and development regulated by this shoreline code are subject to applicable provisions of the Dayton Municipal Code (DMC), the City of Dayton's Comprehensive Plan, SMP, the SMA (RCW Chapter 90.58), the Washington State Growth Management Act (RCW Chapter 36.70A), the Washington State Environmental Policy Act (RCW Chapter 43.21C and Chapter 197-11 WAC) and other local, state, and federal laws. Project proponents shall be responsible for complying with all applicable laws prior to commencing any use, development, or activity.
- E. The shoreline code regulations shall apply in addition to other city regulations. Where the regulations of the shoreline code conflict with other regulations, the regulations that provide more shoreland and shoreline protection shall apply.
- F. Nonconforming uses and improvements within the shoreline management area shall be subject to this shoreline code and DMC 11-09. Where provisions of this shoreline code conflict with other laws, ordinances, or plans, the most restrictive shall apply.

**15-01.070. Enforcement.**

The Shoreline Administrator is authorized to enforce the provisions of this title and any rules and regulations promulgated hereunder pursuant to the enforcement and penalty provisions of Chapter 173-27 WAC.

**CHAPTER 15-02. DEFINITIONS**

**15-02.010. Shoreline code definitions.**

The shoreline code shall be implemented according to the definitions contained in title 15 DMC, RCW Chapter 90.58, and WAC 173-26-020. Where definitions contained in title 15 DMC conflict or differ from definitions contained in the SMA, the definitions in RCW Chapter 90.58 and WAC 173-26-020 shall prevail.

**15-02.020. Definitions A through E.**

"*Accretion*" may be either natural or artificial. Natural accretion is the buildup of land, solely by the action of the forces of nature, on a beach by deposition of water or airborne material. Artificial accretion is a similar buildup of land due to an act of man, such as the accretion formed by a groin, breakwater, or beach fill deposited by mechanical means.

"*Act*" means RCW Chapter 90.58, the Shoreline Management Act of 1971, as amended.

"*Activity*" means an occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include, but are not limited to, fishing, swimming, boating, dredging, fish spawning, or wildlife nesting.

"*Adjacent lands*" means lands adjacent to the lands within the shoreline management area. The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules, and the local shoreline master program and shoreline code (refer to RCW 90.58.340)

"*Agricultural uses*" means:

- A. "*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

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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.

- B. *"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 20 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.
- C. *"Agricultural equipment"* and *"agricultural facilities"* includes, but is not limited to,
1. 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;
  2. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
  3. Farm residences and associated equipment, lands, and facilities; and
  4. Roadside stands and on-farm markets for marketing fruit or vegetables.
- D. *"Agricultural land"* means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local SMP and SMC pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date, land converted to agricultural use is subject to compliance with the requirements of the shoreline code.

*"Anadromous fish"* means fish born in fresh water, which spend most of their lives in the sea and return to fresh water to spawn. Salmon, smelt, shad, striped bass, and sturgeon are common examples.

*"Archaeology"* means the systematic, scientific study of the human past through material remains.

*"Archaeological object"* means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains, and technological by-products.

*"Archaeological resource site"* means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the waters within the state's jurisdiction, that contains archaeological objects.

*"Associated wetlands"* means those wetlands that are in proximity to and either influence, or are influenced by, tidal waters or a lake or stream subject to the SMA. Refer to WAC 173-22-030(1).

*"Aquaculture"* means the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater areas, which may include development such as structures or rafts, as well as use of natural spawning and rearing areas.

*"Aquaculture activity"* means actions directly pertaining to growing, handling, or harvesting of aquaculture produce, including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, and development of habitat and structures. Excluded from this definition are related upland commercial or

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industrial uses such as wholesale and retail sales, sorting, staging, hatcheries, tank farms, and final processing and freezing.

*"Backfill"* means the placement of earth material or other approved material behind a retaining wall or structure.

*"Boat launch or ramp"* means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

*"Buffers, in critical areas"* means an area which provides the margin of safety through protection of slope stability, attenuation of surface water flows, or landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters. A buffer may also be an area that is an integral part of a stream, wetland, or other sensitive area's natural ecosystem; it may provide shading, input of organic debris and coarse sediments, room for variation in stream flow paths, and/or habitat for wildlife. Buffers are generally maintained through regulations to prevent harmful intrusions that would diminish the ecological functions or level of safety provided to the public by the natural resource they are buffering. See also definition for riparian habitat area.

*"Bulkhead"* means a vertical or nearly vertical structure placed parallel to the shoreline at or near the ordinary high water mark (OHWM) for the purpose of armoring the shoreline and protecting structures from the effects of erosion caused by wind or waves. Bulkheads generally consist of concrete, timber, steel, rock, or other material resistant to erosion. Bulkheads are used to protect banks by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting.

*"Commercial development"* means development of structures and landscaped areas dedicated to commercial activities, including, but not limited to, stand-alone and home-based facilities dedicated to the sale of goods or services.

*"Conditional use"* means a use that may be permitted in a particular shoreline designation, but because of the type or nature of the use, conditions for its establishment and operation may be necessary to ensure compatibility with adjacent land uses. In addition, a conditional use is any use, development, or substantial development that is classified as a conditional use or is not classified within the applicable shoreline code under DMC 15-06.050.

*"Creation"* means creation of a new resource to improve or increase natural characteristics and processes without degrading other existing functions. Creation of natural riparian shorelands is the preferred mitigation for impacts to riparian vegetation when avoidance is not possible.

*"Critical areas"* include any of the following areas or ecosystems: frequently flooded areas, critical aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and wetlands, as defined in RCW 36.70A and this title.

*"Department"* means the Washington State Department of Ecology.

*"Development, shoreline"* means development within the shoreline management area 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 title at any state of water level. Refer to RCW 90.58.030(3)(d). "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

*"Dredging"* means the removal or displacement of earth, such as gravel, sand, mud, or silt, from lands covered by water. Lands covered by water include stream beds and wetlands. Dredging is normally done for specific purposes or uses such as maintaining navigation channels, constructing bridge footings, or laying submarine pipelines or cable.

*"Dredge spoil"* means the material removed by dredging.

*"Dredge spoil disposal"* means the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands or for disposing of the material in an acceptable manner.

*"Ecological functions or shoreline ecological functions"* means the work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201(2)(c).

*"Enhancement"* means alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

*"Exemption"* means certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. Exempt development must otherwise comply with applicable provisions of the act and the shoreline code.

### **15-02.030. Definitions F through M.**

*"Fair market value"* means fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, and materials necessary to accomplish the development. Fair market value would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

*"Feasible"* means an action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results.
- B. The action provides a reasonable likelihood of achieving its intended purpose.
- C. The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

*"Flood control"* means any undertaking made for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

*"Forest practices"* means an activity related to the growing, protecting, harvesting, or processing of forest tree species.

*"Forest tree species"* means groupings of individual trees that possess common characteristics and are capable of producing fertile progeny.

*"Gabions"* means cages, cylinders, or boxes filled with soil or sand that are used in civil engineering, road building, and military applications, primarily for erosion control and building dams and retaining walls.

*"Geohydrology"* means a science that deals with the character, source, and mode of occurrence of underground water.

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"*Geotechnical report*" means geotechnical report or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology; the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes; conclusions and recommendations regarding the effect of the proposed development on geologic conditions; the adequacy of the site to be developed; the impacts of the proposed development; alternative approaches to the proposed development; and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes and are licensed in Washington state.

"*Guidelines*" means refers to the administrative rule adopted by department of ecology, WAC 173-26, state master program approval/amendment procedures, and master program guidelines.

"*Grading*" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material made on a site in a manner that alters the natural contour of the land.

"*Groundwater recharge*" means a hydrologic process where water moves downward from surface water to groundwater. Recharge occurs both naturally (through the water cycle) and anthropologically (i.e., "artificial groundwater recharge"), where rainwater and/or reclaimed water is routed to the subsurface.

"*Height*" means height is measured from average grade level to the highest point of a structure. Television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable shoreline code specifically requires that such appurtenances be included. Temporary construction equipment is excluded from this calculation.

"*Historic preservation professional*" means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

- A. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
- B. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

"*Historic site*" means those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places, or any locally developed historic registry formally adopted by the Dayton City Council.

"*Hydric soil*" means soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s).

"*Industrial development*" means development of structures and landscaped areas dedicated to industrial activities including, but not limited to, workshop and factory facilities.

"*Land disturbing activities*" means any activity resulting in a movement of earth, or a change in the existing soil cover, both vegetative and non-vegetative, or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt mix, which is associated with stabilization of structures and road construction, shall also be considered a land disturbing activity.

"*Landfilling*" means the placement of soil, rock, existing sediment, or other approved material (excluding solid waste) to create new land, tideland, or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.

"*Levee*" means a structure, normally of earth or stone, built generally parallel to a river to protect land from flooding. A levee is a complete unit, designed and intended for flood control. A levee (excluding a ring levee) is always tied to high ground at both ends.

"*Linear corridor*" means a parcel of land, linear in nature, without fixed limits or boundaries that is used as the location for one or more transportation or utility rights-of-way.

"*Low-impact development*" means a term used in Canada and the United States to describe a land planning and engineering design approach to managing stormwater runoff. Low-impact development emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime of watersheds through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source.

"*May*" means an acceptable action provided it conforms to the provisions of the shorelines master program and shoreline code.

#### **15-02.040. Definitions N through Z.**

"*Native vegetation*" means vegetation composed of plant species, other than noxious weeds, indigenous to riparian regions of the inland northwest that reasonably could have been expected to naturally occur on the site.

"*Nonconforming use*" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

"*Nonconforming development*" or "*nonconforming structure*" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

"*Nonconforming lot*" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

"*Nonwater-oriented uses*" means those uses that are not water-dependent, water-related, or water-enjoyment.

"*Normal maintenance, structures*" means normal maintenance includes interior and exterior repairs and incidental alterations. Normal maintenance and repair may include, but is not limited to, painting, roof repair and replacement, plumbing, wiring and electrical systems, mechanical equipment replacement and weatherization. Incidental alterations may include construction of nonbearing walls or partitions. In regard to bulkheads, and particularly the exemption described in DMC 15-03.030, repairs also include increasing the overall height of an existing wall for the purpose of preventing wave over topping and undermining of the existing structure, provided that the added height does not extend waterward of the existing footing and a qualified professional has issued a determination that a deflector is necessary and of the minimal size to be effective.

"*Normal maintenance, non-structures*" means normal maintenance consists of repairs and modifications necessary to keep an item in good working order. It does not include modifications that increase or decrease the original use of the item.

"*Ordinary high water mark (OHWM)*" means OHWM on all lakes, rivers, 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

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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 OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water.

"*Permit*" means a document or certificate giving permission to do something or a license or warrant authorized under RCW Chapter 90.58.

"*Professional archaeologist*" means a person with qualifications meeting the federal Secretary of the Interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

"*Public access*" means the ability of the general public to reach, see, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

"*Public facilities*" means any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

"*Qualified biologist*" means the holder of a B.S. or B.A. or equivalent degree in biology, environmental studies, fisheries, geomorphology, or related field, from an accredited university, with at least two years of field and/or laboratory experience in evaluation of land use impacts on fish and wildlife species and their habitats, with evidence of peer-reviewed publications or other related professional literature.

"*Qualified geologist*" means a professional engineer registered in the State of Washington, trained and qualified to analyze geologic, geotechnical, hydrologic, and groundwater flow systems, or a geologist or geotechnical engineer who has received a degree from an accredited 4-year college or university and who has relevant training and experience in analyzing geologic, geotechnical, hydrologic, and groundwater flow systems.

"*Qualified professional*" means a holder of a degree, certification, or Washington State license in a specialty necessary for making decisions on the status of current and future conditions.

"*Qualified wetland specialist*" means a holder of a Society of Wetland Scientists certification or has the equivalent in academic qualifications and field experience for making competent wetland delineations, reports, and recommendations necessary to implement the provisions of this title.

"*Resource agency*" means a federal, state, or interstate agency with responsibilities in the areas of flood control, navigation, irrigation, recreation, fish or wildlife, water resource management, or cultural or other relevant resources of the state in which a project is or will be located.

"*Restoration*" means the reestablishment or upgrading of impaired ecological processes or functions. Restoration may be accomplished through measures, including, but not limited to, revegetation, removal of intrusive structures, toxic materials, or invasive or non-native plants. Restoration does not imply a requirement for returning the area to pre-European settlement conditions.

"*Revetment*" means a sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes away from the water and has a rough or jagged face. These features differentiate it from a bulkhead, which is a vertical structure. The principal features of a revetment are:

- A. Heavy armor layer,
- B. Filter layer, and

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C. Toe protection.

The flood control levees on the Touchet River are a type of revetment.

"*Riparian*" means the characteristic of relating to or living or located on the bank of a natural watercourse (as a river) or sometimes of a lake or a tidewater.

"*Riparian habitat area*" means the area adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other.

"*Sediment*" means the fine-grained material deposited by water or wind.

"*Shall*" in a policy means that it is mandatory for the city to carry out the policy, even if a timeframe is not included. "Shall" is imperative and nondiscretionary—the city must make decisions based on what the policy says to do.

"*Shorelands*" or "*shoreland areas*" or "*shoreline management area*" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; contiguous floodplain areas landward 200 feet; and all wetlands and deltas associated with the streams that are subject to the provisions of this title.

"*Shoreline Administrator*" means city planning director, or designee, for the City of Dayton.

"*Shoreline environment designation*" means classifications of shoreline areas that reflect local shoreline conditions, including ecological functions and shoreline development. Per WAC 173-26-191(1)(d), environment designations provide "the framework for implementing shoreline policies and regulatory measures specific to the environment designation."

"*Shoreline habitat and natural systems enhancement projects*" include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing wildlife and fisheries habitat in shorelines. Projects may include shoreline modifications such as revegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

"*Shoreline master program*" or "*SMP*" means the comprehensive plan for the use of a described area and the regulations for use of the area including maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for the City of Dayton approved under RCW Chapter 90.58 shall be considered an element of the city's comprehensive plan. All other portions of the shoreline master program for the City of Dayton adopted under RCW Chapter 90.58, including use regulations, shall be considered a part of the city's Shorelines Management Code (SMC), Title 15.

"*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.

"*Shorelines*" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except:

- A. Shorelines of statewide significance; and
- B. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

"*Shorelines of statewide significance*" means shorelines of the state that meet the criteria for "Shorelines of Statewide Significance" contained in RCW 90.58.030(2)(f). As it applies to the City of Dayton, shorelines of

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statewide significance include all of the shoreline of the Touchet River that lies within the city limits (more than 200 cubic feet per second [cfs] flow).

"*Shorelines of the state*" means and includes both shorelines and shorelines of statewide significance.

"*Should*" in a policy means noncompulsory guidance, in which cost, availability of funding, and public benefit associated with the policy's purpose are considered as part of the implementation decision; establishes that the county has discretion in making decisions.

"*Significant*" means that quality in American history, architecture, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in our past; or
- C. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in history or prehistory.

"*Substantial development*" means any development with a total cost or fair market value of \$8,504.00 [2022 figure] or more that requires a substantial development permit. The threshold total cost or fair market value of \$8,504 is set by the Washington State Office of Financial Management and may be adjusted in the future pursuant to the SMA requirements, as defined in RCW 90.58.030(3)(e), as now or hereafter amended.

"*Variance*" means to grant relief from the specific bulk, dimensional, or performance standards set forth in the applicable shoreline code and not a means to vary a use of a shoreline.

"*Water-dependent use*" means a use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water because of the intrinsic nature of its operations.

"*Water-enjoyment use*" means a recreational 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.

"*Water-oriented use*" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

"*Water quality*" means the physical characteristics of water within shoreline jurisdiction. Characteristics may include water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this title, the term "water quantity" refers only to development and uses regulated under this title and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this title, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through RCW 90.03.340.

"*Water-related use*" means a use or portion of a use that 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

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- 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.

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-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 artificial wetlands used for project mitigation.

### **CHAPTER 15-03. SHORELINE PERMIT AND REVIEW PROCEDURES**

#### **15-03.010. Permit requirements—General.**

- A. A permit, or an exemption declared by the Shoreline Administrator, is required for any development within the shoreline management area.
- B. Based on the provisions of this shoreline code, the Shoreline Administrator shall determine if a written statement of exemption, a substantial development permit, a conditional use permit and/or a variance is required.
- C. A permit is required for substantial development, as defined in RCW 90.58.030(3)(e), within the shoreline management area.
- D. A substantial development permit is not required for exempt development. Exempt development requires a written statement of exemption pursuant to DMC 15-03.030(A) and may require a variance from shoreline code provisions and/or a conditional use permit.
- E. All uses and development shall be carried out in a manner consistent with the DMC and the SMP regardless of whether a substantial development permit, written statement of exemption, variance, or conditional use permit is required.
- F. When a development is proposed that does not comply with the bulk, dimensional, and/or performance standards of this shoreline code, such development may only be authorized by approval of a variance, even if the development or use does not require a substantial development permit.
- G. Any uses not specifically addressed in this document may be permitted with a conditional use permit.
- H. Issuance of a written statement of exemption, substantial development permit, variance, or conditional use permit does not constitute approval of any other city, state, or federal laws or regulations.
- I. All permits or written statements of exemption issued for development or use within the shoreline management area shall include written findings prepared by the Shoreline Administrator documenting compliance with bulk and dimensional policies and regulations of the SMP. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the SMP, SMC and RCW Chapter 90.58. The conditions may include a requirement to post a performance financial guarantee assuring compliance with permit requirements, terms and conditions.

**15-03.020. Substantial development permit.**

- A. Substantial development as defined by RCW 90.58.030 and the shoreline code shall not be undertaken by any person on shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically allowed with a letter of exemption.
- B. A substantial development permit shall only be granted by the Shoreline Administrator when the development proposed is consistent with the policies and procedures of RCW Chapter 90.58, the provisions of Chapter 173-27 WAC, SMP and the shoreline code.
- C. An exemption from the substantial development permit requirements does not constitute an exemption from the policies and use regulations of the SMA, the provisions of the SMP, shoreline code, or other applicable city, state, or federal requirements. A formal written statement of exemption is required pursuant to WAC 173-27-050.

**15-03.030. Exemption.**

The Shoreline Administrator is hereby authorized to approve or deny requests for written statements of exemption from the substantial development permit requirement for uses and developments within the shoreline management area that are specifically listed in RCW 90.58.030(3)(e) and WAC 173-27-040. The written statement shall indicate the specific exemption of WAC 173-27-040 that is being applied to the development and shall provide a statement of the consistency of the project with this shoreline code, SMP and the SMA. The statement shall include any conditions required to assure compliance with the SMA, SMP or this shoreline code. When filing for a written statement of exemption, only forms provided by the city can be used.

If any part of a proposed development is not eligible for a letter of exemption, then a shoreline substantial development permit is required for the entire proposed development project. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the shoreline substantial development permit.

- A. A complete list of exemptions is provided in WAC 173-27-040 and RCW 90.58.147.
- B. When a development meets the exemption criteria as listed in this section and WAC 173-27-040 and is subject to a USACE Section 10 or Section 404 permit, a copy of the written exemption shall be sent to the department.
- C. Before issuing an exemption, the Shoreline Administrator shall review the shoreline code to determine if the proposed development requires a variance and/or a conditional use permit.

**15-03.040. Variance.**

- A. The City Council or Hearing Examiner is authorized to approve a variance from the performance standards of this shoreline code only when all of the criteria enumerated in WAC 173-27-170 are met.
- B. A variance should be granted in circumstances where denial of the permit would prevent accomplishment of the policies enumerated in RCW 90.58.020.
- C. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will not suffer substantial detrimental effect.
- D. Prior to approval of any variance, the City Planning Commission and City Council shall consider the cumulative environmental impacts of previous, existing, and possible future requests for like actions in the area. The total effects of approved variances should remain consistent with the policies of RCW 90.58.020

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and shall not produce significant adverse effects to the shoreline ecological functions, processes, or other users.

- E. Before making a determination to approve a variance, the City Planning Commission and City Council shall consider issues related to the conservation of valuable natural resources and the protection of views from public lands.
- F. The City Planning Commission will review requests for variances and make a recommendation to the City Council. The City has the option to retain a Hearing Examiner at the applicant's request, and as requested by the Planning Commission for large and/or complex projects.
- G. If the City does not have an active Planning Commission at the time of permit application, the City shall retain a Hearing Examiner.

**15-03.050. Conditional use permit.**

The City Council or Hearing Examiner is authorized to issue conditional use permits only when all the criteria enumerated in WAC 173-27-160 are met.

- A. Uses that are classified or set forth in the shoreline code as conditional uses may be authorized provided that the applicant demonstrates all of the following:
  - 1. That the proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
  - 2. That the proposed use will not interfere with the normal public use of public shorelines;
  - 3. That the proposed use of the site and design of the project are compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline code;
  - 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - 5. That the public interest suffers no substantial detrimental effect.
- B. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- C. Other uses that are not classified or set forth in the applicable shoreline code may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the shoreline code.
- D. Uses that are specifically prohibited by the shoreline code may not be authorized pursuant to either subsection A or B above.
- E. The City Planning Commission will review requests for conditional use permits and make a recommendation to the City Council. The City has the option to retain a Hearing Examiner at the applicant's request, and as requested by the Planning Commission for large and/or complex projects.
- F. If the City does not have an active Planning Commission at the time of permit application, the City shall retain a Hearing Examiner.

**15-03.060. Unclassified uses and activities.**

All uses and activities proposed in the shoreline management area that are not classified by provisions in this SMC shall require a conditional use permit.

**15-03.070. General permit procedures.**

- A. Permits required under this title shall be processed consistent with the provisions of and the criteria in this title.
- B. No permit shall be approved unless the proposed development is consistent with the provisions of this SMC, the SMP, the SMA, and the rules and regulations adopted by the Washington State Department of Ecology.

**15-03.080. Application review.**

- A. A complete application for a substantial development, conditional use, or variance permit shall contain, as a minimum, the following information:
  - 1. The name, address, and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
  - 2. The name, address, and phone number of the applicant's representative if other than the applicant.
  - 3. The name, address, and phone number of the property owner, if other than the applicant.
  - 4. Location of the property. This shall include, at a minimum, the property address and identification of the section, township, and range to the nearest quarter section, or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a latitude and longitude location.
  - 5. Label the associated shoreline (water body) as "Touchet River."
  - 6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
  - 7. A general description of the property as it now exists including its physical characteristics, improvements, and structures.
  - 8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development, and physical characteristics.
  - 9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information (generally one inch equals 60 feet), photographs, and text which shall include the following:
    - a. The boundary of the parcel(s) of land upon which the development is proposed.
    - b. The OHWM of all water bodies located adjacent to or within the boundary of the project. For any development where a determination of consistency with the applicable regulations requires a precise location of the OHWM, the mark shall be located precisely by a qualified professional. The physical, biological, and hydrological basis for the location shall be included in the development application narrative and shown on the development site plan. Where the

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- proposed development appears to be over ten feet beyond a development setback, the city's estimate of the OHWM shall suffice for the purpose of application review.
- c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
  - d. A delineation of all critical areas and associated buffers, including wetlands and wetland buffers within the parcel, as applicable.
  - e. The location of trees and shrubs and a general indication of the character of herbaceous vegetation found on the site. Where vegetation removal is proposed as part of the development, the species and diameter at breast height of trees to be removed shall be indicated on the plan.
  - f. The dimensions and locations of all existing and proposed structures and improvements, including, but not limited to, buildings, paved or graveled areas, roads, utilities, septic tanks and drain fields, material stockpiles or surcharge, and stormwater management facilities.
  - g. Where applicable, per DMC 15-05.030, a separate Riparian Habitat Area Vegetation Plan for the project.
  - h. Where applicable, separate plans for the development of mitigation areas on or off the site as compensation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section and DMC 15-05.030.
  - i. Quantity, source, and composition of any fill material that is placed on the site whether temporary or permanent.
  - j. Quantity, composition, and destination of any excavated or dredged material.
  - k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties.
  - l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
  - m. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
- B. It is the applicant's responsibility to provide proof that the proposed development is consistent with the permit criteria requirements.
  - C. The Shoreline Administrator may approve, or approve with conditions, substantial development applications and written exemptions from substantial development as long as they comply with criteria imposed by the shoreline code, SMP and the SMA.
  - D. The Shoreline Administrator may attach to a permit any suitable and reasonable terms or conditions necessary to ensure the purpose and objectives of this shoreline code, SMP and the SMA.
  - E. The Shoreline Administrator shall deny any application that does not comply with and cannot be conditioned to comply with, the criteria, policies, or requirements of the shoreline code, SMP or the SMA.
  - F. The Shoreline Administrator may require a financial guarantee to assure full compliance with the terms and conditions of any substantial development permit, variance, or conditional use permit. The guarantee shall be in an amount to reasonably assure the city that permitted improvements will be completed within the time stipulated.

- G. The Shoreline Administrator will schedule periodic reviews evaluating the cumulative effects of all shoreline projects.

**15-03.090. Permit process requirements.**

- A. *Application submittal.* Per DMC 10-01.030, complete applications for substantial development permits are type II actions. Variances and conditional use permits are type III actions. The applications will be processed pursuant to the procedures identified in this section.
- B. *Notice.* For all submitted applications, the following notice procedures, per WAC 173-27-110, shall be followed:
1. Notification of the public, the department, and other agencies with jurisdiction shall be provided for substantial development, conditional use, and variance permits.
  2. Notice of application shall be provided within 14 days after the determination of completeness.
  3. An open record pre-decision hearing is required for conditional use permits and variance permits. The notice of application shall be provided at least 15 days prior to the hearing.
  4. *Mailed notice.* Per DMC 10-03.010(C), public notice of application, notice shall be mailed to the latest recorded real property owners within 300 feet of the property upon which the development is proposed, plus individuals and organizations that have requested such notification, and agencies with jurisdiction.
  5. *Posted notice.* Posting of the property for site-specific proposals is required by the applicant and shall consist of one or more notice boards per DMC 10-03.010(A), Public Notice of Application.
  6. *Published notice.* Notice shall be published in the city's official newspaper or in a newspaper of general circulation and shall contain the project name, location, description, type of permit(s) required, comment period dates, and where the application may be viewed.
- C. *Public hearing.* Pre-decision public hearings shall be held before the City Council or a hearings examiner.
- D. *Decision.* For all submitted applications, the Shoreline Administrator shall provide a notice of final decision per chapter 10-01 DMC. Pursuant to RCW 90.58.140(6), the Shoreline Administrator shall send the final decision, including findings and conclusions to the following state agencies:
1. Washington State Department of Ecology.
  2. Washington State Attorney General.
- E. *Department of ecology review of permits:*
1. After the City Council or hearings examiner has approved a variance or conditional use permit, the Shoreline Administrator, per WAC 173-27-200, shall file the permit with the department for its approval, approval with conditions, or denial.
  2. When a shoreline permit is required for a development, the local government's ruling on the permit shall be filed simultaneously with the department.
  3. The department will issue its decision on a shoreline permit within 30 days of filing.
  4. Upon receipt of the department's decision, the Shoreline Administrator shall notify those interested parties having requested notification of such decision. The appeal period for department decisions shall last 21 days from receipt of their filing letter.

**15-03.100. Appeals to state shoreline hearings board.**

- A. Appeals of the final decision of the city with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.
- B. Any person with standing aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state, pursuant to RCW 90.58.140, may seek review from the shorelines hearings board by filing a petition for review within 21 days of the date of filing of the decision.
- C. Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department, the office of the Washington State Attorney General, and the local government. The department and the Washington State Attorney General may intervene to protect the public interest and ensure that the provisions of this title are complied with at any time within 15 days from the date of the receipt by the department or the Washington State Attorney General of a copy of the petition of review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the Washington State Attorney General to intervene has or has not expired.
- D. A decision of the shorelines hearings board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to RCW Chapter 34.05. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within 30 days after the date of final decision by the shoreline hearings board.

**15-03.110. Initiation of development.**

- A. Development pursuant to a substantial development permit shall not be authorized until 21 days after the "date of filing" of the Shoreline Administrator's decision with the department, provided no appeals are filed with the state.
- B. Development for which a variance or conditional use permit is required shall not begin and shall not be authorized until 21 days after the "date of filing" of the department's decision with the Shoreline Administrator.
- C. Development pursuant to a letter of shorelines exemption shall not be authorized until all appeal proceedings with the city have terminated.
- D. Development shall not be authorized until all appeal proceedings before the shoreline hearings board have terminated.

**15-03.120. Expiration of permits.**

The city may specify the length of time a shoreline permit will be effective based on the specific requirements of the development proposal. If a permit does not specify an expiration date, the following requirements apply, consistent with WAC 173-14-060:

- A. Construction, or substantial progress toward completion, must begin within two years after approval of the permits.
- B. The city may, at its discretion, with prior notice to parties of record and the department, extend the two-year time period for the substantial progress for a reasonable time up to one year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

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- C. If construction or construction activities have not been completed within five years of approval by the city, the city will review the permit and, upon showing of good cause, either extend the permit for one year or terminate the permit.
- D. Prior to the city authorizing any permit extensions, it shall notify any parties of record and the department. Only one extension is permitted.

**15-03.130. Revision to permits.**

- A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this shoreline code, SMP, or the SMA. Changes that are not substantive in effect do not require a permit revision.
- B. An application for a revision to a shoreline permit shall be submitted to the Shoreline Administrator. The application shall include detailed plans and text describing the proposed changes. The city shall review and process the request in accordance with the requirements of WAC 173-27-100.

**15-03.140. Rescission of permits.**

- A. A permit may be rescinded or modified upon a finding by the city council that the permittee has not complied with the conditions of the permit. The city council may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.
- B. Before a permit can be rescinded or modified, a public hearing shall be held by the city council no sooner than ten days following the service of notice upon the permittee. The city council shall have the power to prescribe rules and regulations for the conduct of such hearings, and may choose to have the hearing examiner to conduct the public hearing on behalf of the city council.

**15-03.150. Nonconforming use and development.**

- A. *Nonconforming structures.*
  - 1. After adoption of this title, structures that now exist within the shoreline management area 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 and repaired, and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Such normal appurtenances are by definition located landward of the OHWM.
  - 2. 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.
  - 4. Any structure nonconforming as to height or setback standards that becomes damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development may be repaired or reconstructed to those configurations existing immediately prior to the time the development was damaged provided that:
    - a. The extent of the previously existing nonconformance is not increased; and
    - b. The building permit application for repair or reconstruction is submitted within 12 months of the occurrence of damage or destruction.

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5. 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 as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.
  6. A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.
- B. *Nonconforming uses.*
1. Uses that were legally established prior to the adoption of the shoreline code and are nonconforming with regard to the use regulations of the shoreline code may continue as legal nonconforming uses after adoption.
  2. If the nonconformity is due to encroachment into the riparian habitat area, such uses shall not be enlarged or expanded waterward. They may be enlarged or expanded landward of the setback line in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g) upon approval of a substantial development permit or a written exemption.
  3. A use which is listed as a conditional use but that existed prior to adoption of the shoreline code or any relevant amendment, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use.
  4. A use which is listed as a conditional use but existed prior to the applicability of the shoreline code to the site, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use for the duration of such use.
  5. A legal nonconforming use that remains unoccupied or unused for a continuous period of one year shall be considered abandoned and shall not thereafter be occupied or used except by a use that conforms to the regulations of the district in which the use is located.
  6. A legal nonconforming use that remains unoccupied or unused for a continuous period of less than one year may be reoccupied only by the same nonconforming use or by a conforming use.
  7. A structure that is or has been utilized for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
    - a. No reasonable alternative conforming use is practical;
    - b. The proposed use will be at least as consistent with the policies and provisions of the Act, SMP, shoreline code, and as compatible with the uses in the underlying zone as the preexisting use; and
    - c. Conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the shoreline code, SMP and the Act, and to ensure that the use will not become a nuisance or a hazard.
- C. *Nonconforming lots.* An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was established in accordance with chapter 11-09 DMC and state subdivision requirements prior to the effective date of the Act or the applicable shoreline code that does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government, as long as such development conforms to all requirements and processes of the shoreline code and the Act.

**CHAPTER 15-04. SHORELINE MANAGEMENT AREAS AND MAP**

**15-04.010. Shoreline environment designations.**

The shoreline management area for the City of Dayton includes the area as defined in DMC 15-01.060(A).

The shoreline management area is separated into six environment designations.

- A. *Aquatic environment (AE)*. The "aquatic" environment (AE) is designed to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.
- B. *High intensity environment (HIE)*. The "high-intensity" environment (HIE) is designed 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.
- C. *Natural environment (NE)*. The "natural" environment (NE) is designed to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions 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. Consistent with the policies of the designation, local government should include planning for restoration or degraded shorelines within this environment.
- D. *Shoreline commercial environment (SCE)*. The "shoreline commercial" environment (SCE) is designed to accommodate existing and future commercial development and accessory structures. Commercial parcels west of Main Street, extending to Commercial Street on the north bank of the Touchet River and from Commercial Street to Willow Street on the south bank, are placed within the SCE environment.
- E. *Shoreline residential environment (SRE)*. The "shoreline residential" environment (SRE) is designed to accommodate existing, small-lot residential development and accessory structures. Residential development north of the Touchet River and west of Commercial Street to the western City limit, plus a portion of development south of the Touchet River immediately west of the Commercial district, is placed within the SRE environment. The confluence of Patit Creek and the Touchet River is included within the SRE environment.
- F. *Urban conservancy environment (UCE)*. The "urban conservancy" environment (UCE) is designed to provide for public access, either physical or view, while maintaining or improving the ecological functions of the shoreline. The purpose of the UCE 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.

**15-04.020. Riparian habitat areas**

The riparian habitat area within each environment designation is established to preserve the ecological condition of the Touchet River and its shorelines:

Environment Designation	Riparian Habitat Area Width
Aquatic	N/A
High Intensity	50 feet Shoreward from OHWM
Natural	200 feet Shoreward from OHWM
Shoreline Commercial	75 feet shoreward from OHWM <sup>(1)</sup>
Shoreline Residential	100 feet shoreward from OHWM <sup>(1)</sup>
Urban Conservancy	125 feet shoreward from OHWM <sup>(1)</sup>

<sup>(1)</sup> Mitigation required for any development within the riparian habitat area.

### **15-04.030. Official shorelines map.**

The environment designations and riparian habitat areas referenced in section 15-04.020 have been mapped and adopted under Ordinance No. 1910, Exhibit G, Appendix A. This map shall be known as the official shoreline environment designation map or the "shoreline map". Copies of the shorelines map are available on the city website and at Dayton City Hall.

## **CHAPTER 15-05. GENERAL SHORELINE REGULATIONS**

### **15-05.010. General regulations.**

The general regulations apply to all uses and activities that may occur within the city's shoreline management area regardless of the shoreline environment designation.

- A. *Applicability.* RCW 90.58.030 applies to local governments preparing shoreline master programs that include shorelines of statewide significance.
- B. *Principles.* RCW Chapter 90.58 raises the status of shorelines of statewide significance in two ways.
  - 1. First, the Act sets specific preferences for uses of shorelines of statewide significance.
  - 2. Second, the Act calls for a higher level of effort when implementing the Act's objectives on shorelines of statewide significance.

### **15-05.020. Environmental regulations.**

- A. *General environmental regulations.*
  - 1. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that prevents, in so far as practicable, adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201(2)(e). Efforts to avoid and minimize impacts must be documented in a manner acceptable to the city prior to the approval of mitigation and/or compensation actions.
  - 2. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that ensures no net loss of ecological function.
  - 3. All shoreline development shall be located, designed, constructed, and managed to protect the functions and values of critical areas consistent with DMC 15-05.030.
  - 4. All shoreline development shall be located and designed to avoid or minimize the need for shoreline stabilization measures and flood protection works, such as bulkheads, revetments, dikes, levees, or substantial site re-grading and dredging. Where measures and works are demonstrated to be necessary, biostabilization techniques shall be the preferred design option unless demonstrated to be infeasible, or when other alternatives would have less impact on the shoreline environment.
  - 5. All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel movement, erosion, and accretion to ensure no net loss of shoreline ecological function.

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6. In approving shoreline developments, the city shall ensure that the development will maintain, enhance, or restore desirable shoreline features, as well as ensure no net loss of local ecological functions. To this end, the city may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, and mitigation as deemed appropriate. Mitigation shall be required of developments that would otherwise result in net loss of ecological functions.
  7. In approving shoreline developments, the city shall consider short- and long-term adverse environmental impacts. In addition, the city may consider the cumulative adverse impacts of unique development, particularly the precedence effect of allowing one development, which could generate or attract additional development. Identified significant short-term, long-term, and cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.
  8. When compensatory mitigation is proposed as part of a development application, mitigation plans shall include at a minimum:
    - a. Inventory of the existing shoreline condition within the affected parcels, including the physical and biological conditions and an assessment of associated ecological conditions;
    - b. An assessment of the project's impacts and their short- and long-term effects on the ecological functions, generally in terms of fish and wildlife habitat, water quality, and water quantity;
    - c. An assessment of any federal, state, or local special management recommendations that have been developed for wetlands, species, or habitats located on the site;
    - d. An assessment of habitat recommendations proposed by resource agencies and applicable watershed and fish recovery plans, and their applicability to the proposal;
    - e. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity;
    - f. A discussion of proposed measures that mitigate the impacts of the project and an evaluation of the anticipated effectiveness of those measures;
    - g. Proposed success criteria for the mitigation measures;
    - h. A discussion of proposed management practices that will protect fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs and contingency plans;
    - i. A monitoring plan and schedule, including methods that are based upon the proposed success criteria, which will be used to demonstrate success or failure of the project; and
    - j. Any additional information necessary to determine the impacts of a proposal and appropriate mitigation.
  9. As a condition of approval, the city may require periodic monitoring for up to ten years from the date of completed development to ensure the success of required mitigation. Any costs incurred would be borne by the property owner or applicant, if different.
  10. Shoreline development shall not be permitted if it will result in a net loss of the natural character of the shoreline, natural resources, or public recreational use of the shoreline.
  11. Where provisions of this shoreline code conflict with each other, or with other laws, ordinances, or programs, the most restrictive provisions shall apply.
- B. *Water.*
1. Pesticides, herbicides, and fertilizers that have been identified by Columbia County, the State of Washington, or federal agencies as harmful to humans, wildlife, or fish shall not be used on city-owned

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property within the shoreline management area or for development or uses approved under a substantial development permit, conditional use permit, or variance, except as allowed by the Shoreline Administrator for the following circumstances:

- a. When use of pesticides, herbicides and fertilizers are consistent with the best management practices (BMPs) for the project or use proposed;
  - b. When the Shoreline Administrator determines that an emergency situation exists where there is a serious threat to public safety, health, or the environment and that an otherwise prohibited application must be used as a last resort; and/or
  - c. Where chemical fertilizer, herbicide, or pesticide use is necessary to protect existing natural vegetation or establish new vegetation as part of an erosion control or mitigation plan, the use of time-release fertilizer and herbicides shall be preferred over liquid or concentrate application, except as used in targeted hand applications.
2. The release of oil, chemical, or hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. During construction, vehicle refueling and vehicle maintenance shall occur outside of regulated shoreline areas.
  3. The bulk storage of oil, fuel, chemical, or hazardous materials, on either a temporary or a permanent basis, is prohibited, except for uses allowed by the zoning classification. For the purpose of this section, heating oil, yard maintenance equipment fuel, propane, sewage sumps, and similar items common to single-family residential uses are not included in this definition.

C. *Plants and animals.*

1. Mitigation shall be required of the applicant for the loss of fish and wildlife resources and natural systems, including riparian vegetation, associated wetlands, and sensitive areas. The mitigation required shall be commensurate to the value and type of resource or system impacted by development and activity on the shoreline. On-site compensatory mitigation shall be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to fish and wildlife resources and natural systems, including riparian vegetation, wetlands, and sensitive areas. If on-site compensatory mitigation is not feasible or if off-site mitigation is demonstrated to be more beneficial to the shoreline environment, the applicant shall provide funding for a restoration or enhancement program within the shoreline management area elsewhere in the city or upstream of the city in coordination with ongoing salmon recovery or water quality plan implementation efforts.
2. Enhancement, restoration, and/or creation of natural riparian shorelands shall be the preferred mitigation for impacts to riparian vegetation when avoidance is not possible. Preference will be based on site-specific recommendation provided by qualified professionals, including resource agency staff. Alterations to wetlands and fish and wildlife habitat conservation areas, excepting habitat enhancements, should be avoided. If they cannot be avoided, mitigation is required, and a habitat mitigation plan shall be prepared as required in DMC 15-05.020(A).
3. Habitat mitigation plans may be forwarded by the Shoreline Administrator to the appropriate state and/or federal resource agencies for review and comment.
4. Based on the habitat mitigation plan and comments from other agencies, the Shoreline Administrator may require mitigating measures to reduce the impacts of the proposal on the wildlife habitat conservation areas. Mitigating measures may include, but are not limited to:
  - a. Native plantings in strategic locations to enhance the vegetation corridor or shade the river;

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- b. In-water fish habitat enhancements;
  - c. Levee setbacks or perforations to allow fish access to off-channel habitat;
  - d. Increased or enhanced buffers elsewhere on the property;
  - e. Setbacks for permanent and temporary structures;
  - f. Reduced project scope;
  - g. Limitations on construction hours;
  - h. Limitations on hours of operation; and/or
  - i. Relocation of access.
5. Mitigation activities shall be monitored to determine effectiveness of the habitat mitigation plan. Monitoring may be accomplished by a third party, subject to the approval by the Shoreline Administrator, and shall have the concurrence of the WDFW, and where applicable, the department. Monitoring may occur for up to ten years following implementation of the plan. Any costs incurred will be borne by the property owner or applicant, if different.
  6. If proposed mitigation is found to be inadequate, or if adequate mitigation is determined to be impossible, the application shall be denied.
  7. Timing of in-water construction, development, or activity shall be determined by the WDFW.
- D. *Noise.*
1. Any noise emanating from a shoreline use or activity shall be muffled so as to not interfere with the designated use of adjoining properties. This determination shall take into consideration ambient noise levels, intermittent beat, frequency, and shrillness.
  2. Ambient noise levels shall be a factor in evaluating a shoreline permit application. Shoreline developments that would increase noise levels to the extent that the designated use of the shoreline would be disrupted shall be prohibited. Specific maximum environment noise levels can be found in WAC 173-60-040.
- E. *Public health.* Development shall be designed to conform to the public health codes and ordinances adopted by the city.
- F. *Land use.* Development within the designated shoreline management area shall comply with the development and use standards for the underlying zone.
- G. *Aesthetics.*
1. Development shall be designed to comply with the codes and ordinances adopted by the city for the underlying zone.
  2. If the zoning and use require landscaping, or if planting is required for mitigation by the Shoreline Administrator, the property owner shall provide a landscape plan that provides suitable screening. Native vegetation shall be used for screening within the shoreline management area.
  3. Development shall be constructed as far landward as possible to avoid interference with views.
  4. Lighting shall be properly directed and shielded to avoid off-site glare and impacts to fish.
  5. Structure height shall not exceed the standards found in title 11 DMC.
- H. *Historical/cultural.*

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1. All applications for a shoreline development permit, a building permit, a clearing and grading permit, a demolition permit, or a statement of exemption for shoreline development within the shoreline management area shall be reviewed for a determination of whether the site(s) in question:
  - a. Is on property within 500 feet of a site known to contain historic, cultural, or archaeological resource(s); or
  - b. Is in an area mapped as having the potential for the presence of archaeological, historic, or cultural resources to be present.

All applications meeting these criteria shall require a cultural resource site survey or assessment, unless this requirement is waived or modified by the Washington State Department of Archaeology and Historic Preservation (DAHP). Any required site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or significant archaeological resources. Buildings or structures over 50 years in age shall be inventoried in a DAHP historic property inventory database entry and archaeological sites shall be recorded on DAHP archaeological site inventory forms. The fee for the services of the professional archaeologist or historic preservationist shall be paid by the applicant.

2. If the cultural resource site assessment identifies the presence of archaeological, historic, or cultural resources, appropriate recommendations shall be prepared by a professional archaeologist or historic preservation professional, as part of the survey or assessment. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the applicant. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the DAHP and the affected tribe(s). Comments received from these reviewers shall be incorporated into the conclusions and recommended conditions of the survey or assessment to the maximum extent practicable.
3. The cultural resources survey or site assessment shall be prepared in accordance with guidance for such studies approved or promulgated by the DAHP. The DAHP shall determine whether the research design or study is adequate.
4. The Shoreline Administrator shall consult with the DAHP and affected tribe(s) prior to approval and acceptance of the survey or assessment.
5. Based upon consultation with the DAHP and affected tribe(s), the Shoreline Administrator may reject or request revision of the conclusions reached in a survey or assessment when the Shoreline Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic or archaeological resource management concerns involved.
6. In the event a cultural resources survey or site assessment is submitted directly to the City of Dayton, the professional archaeologist or historic preservation professional will be advised to submit the materials directly to the DAHP.
7. In granting shoreline permits or statements of exemption for such development, the City of Dayton may attach conditions of approval to require consultation with the DAHP, affected tribe(s), and any local historic preservation authority, to assure that historic or archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provisions for the protection and preservation of historic or archaeological sites, structures, buildings, districts, objects, or areas shall be incorporated to the maximum extent practicable.
8. Inadvertent discovery:

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- a. Whenever historic, cultural, or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Shoreline Administrator.
- b. The Shoreline Administrator shall then notify the DAHP, affected tribe(s), any local historic preservation authority, and any other appropriate agencies and upon consultation with DAHP, shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable. The site assessment shall be distributed to the DAHP, the affected tribe(s), and local historic preservation authority for a 15-day review period. If the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.
- c. If human remains are encountered, all activity must cease and the area must be protected and the find reported to local law enforcement and the county coroner or medical examiner.

**15-05.030. Critical areas within the shoreline management area.**

**A. General Provisions**

1. Purpose. The purpose of DMC 15-05.030 is to:
  - a. Define, identify, and protect critical areas as required by the GMA of 1990 (Chapter 17, Laws of 1990) and the SMA (RCW 90.58) through the application of the most current scientific and technical information available.
  - b. The City shall regulate in shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more critical areas.
  - c. The critical area regulations shall apply in addition to other SMP requirements as an overlay and in addition to zoning and other regulations adopted by the City.
2. Goals
  - a. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding.
  - b. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species.
  - c. Direct activities not dependent on shorelands and critical areas resources to less ecologically sensitive sites and mitigate impacts to critical areas by regulating alterations in and adjacent to critical areas.
  - d. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat and maintain no net loss of ecological functions.
3. Relationship to Other Regulations and Permits
  - a. Compliance with the provisions of this section does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval permits, USACE Section 404 permits, and National Pollutant Discharge Elimination System permits). The applicant is responsible for complying with these requirements apart from the SMP compliance process established in this section.
4. Jurisdiction – Critical Areas in Shoreline Jurisdiction
  - a. Critical areas regulated by this section include:
    - i. Wetlands
    - ii. Critical aquifer recharge areas
    - iii. Frequently flooded areas
    - iv. Geologically Hazardous Areas, as designated
    - v. Fish and Wildlife Habitat Conservation Areas
  - b. All areas within the City’s shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this section.

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- c. Protection of Critical Areas. Any action taken pursuant to DMC 15-05.030 shall result in maintaining no net loss of ecological function of the critical areas associated with the proposed action, as determined by the most current scientific and technical information. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, per DMC 15-05.020(A), to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.
5. Authorizations Required. Prior to fulfilling the requirements of this section, the City shall not grant any approval or permission of permits to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement including, but not limited to, the following:
  - a. Building Permit
  - b. Conditional Use Permit
  - c. Shoreline Conditional Use Permit
  - d. Shoreline Substantial Development Permit
  - e. Shoreline Variance
  - f. Binding Site Plan
  - g. Short Subdivision
  - h. Subdivision
  - i. Zoning Variance
  - j. Rezone
  - k. Any other adopted permit or required approval not expressly exempted by this section.
6. Most Current Scientific and Technical Information
  - a. WAC 173.26.201(2)(a) requires the City to identify and assemble the most current, accurate, and complete scientific and technical information available regarding the development of policies related to identification of and policies governing management recommendations for critical areas.
  - b. Critical Area Reports, mitigation plans, and decisions to permit the alteration of critical areas within the shoreline jurisdiction shall rely on the most current scientific and technical information to ensure the protection of the ecological functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat.
  - c. The most current scientific and technical information shall be consistent with criteria established in WAC 173.26.201(2)(a) and may include the following:
    - i. Critical area maps included in the City’s Comprehensive Plans
    - ii. Maps and reference documents in the City’s SMP Inventory, Characterization, and Analysis Report, as applicable
    - iii. U.S. Geological Survey (USGS) topographic quadrangle maps
    - iv. Washington State Geologic Hazard, Mine Hazard Area, and Water Type map
    - v. U.S. Bureau of Land Management Mine Hazard Area map

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- vi. Aerial photographs
  - vii. Soil Survey of Columbia County, Washington, by the U.S. Department of Agriculture, Soil Conservation Service
  - viii. National Wetland Inventory maps
  - ix. WDFW Priority Habitats and Species maps
  - d. Columbia County GIS provides an online map with potential wetland layers occurring within the City.
  - e. Applicability of reference maps. In some cases, the critical areas resources identified herein display general locations and approximate boundaries of potential critical areas. Further field determination and analysis may be necessary for specific development proposals to establish exact location, extent, and nature of critical areas. Fish and Wildlife Habitat Conservation Areas are identified using the references, maps, and criteria established in DMC 15-05-030(G).
7. General Review Process
- a. The Shoreline Administrator shall follow the process outlined below:
    - i. Verify the information submitted by the applicant for the applicable permit.
    - ii. Evaluate the project area and vicinity for critical areas.
    - iii. Determine whether the proposed project is likely to impact the functions or values of critical areas.
    - iv. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
  - b. The Shoreline Administrator will review each shoreline permit application in accordance with this SMP and determine if the provisions of this section will be applied to the project. In making the determination, the Shoreline Administrator may use any of the most current scientific information and the critical area reference maps and/or inventories identified in DMC 15-05.030(A)(6).
  - c. Minimum Standards. Any proposed activity shall be conditioned as necessary to mitigate impacts to critical areas to ensure no net loss of ecological function and conformity to the performance standards required by this section and DMC 15-05.020. Any project that cannot adequately mitigate its impacts to critical areas or meet the performance standards required by DMC 15-05.030 shall be denied.
  - d. Critical areas present, but no impact – waiver.
    - i. If the Shoreline Administrator determines that there are critical areas within or adjacent to the project area, but the proposed activity is unlikely to degrade the functions or values of the critical area, the Shoreline Administrator may waive the requirement for a report or other applicable information (with written approval or other assistance from a federal, state, or local resource agency). A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
      - A. There will be no alteration of the critical area or buffer.
      - B. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this SMP.

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- C. The proposal is consistent with other applicable regulations and standards.
  - ii. In making the determination, the Shoreline Administrator may use any of the most current scientific information and the critical area reference maps and/or inventories identified in in DMC 15-05.030(A)(6).
- e. Critical Areas Present and Potential Impact Likely. If the Shoreline Administrator determines that the proposed project is within, adjacent to, or is likely to impact a critical area, the Shoreline Administrator shall:
  - i. Notify the applicant that a Critical Area Report, SEPA Checklist, or other applicable information must be submitted prior to further review of the project and indicate each of the critical area types that should be addressed.
  - ii. Require a Critical Area Report or other applicable information from the applicant that has been prepared by a qualified professional. Additional information and requirements may be obtained within this SMP.
  - iii. Review and evaluate the Critical Area Report and other applicable information to determine whether the development proposal conforms to the purpose and performance standards of this SMP.
  - iv. Assess potential impacts to the critical area and determine if they are necessary and unavoidable.
  - v. Determine if any mitigation proposed by the applicant is sufficient to protect the critical area and meet the standards for no net loss of ecological functions and public health, safety, and welfare concerns.
  - vi. A summary of this analysis and the findings shall be included in any decision on the underlying permit(s). Critical area review findings may result in: no adverse impacts to critical area(s), a list of applicable critical area(s) protection conditions for the underlying permit(s), or denial of permit based upon unavoidable impacts to critical area(s) ecological functions and values.
- 8. Critical Area Report Requirements
  - a. Incorporating the most current scientific and technical information. The report shall use scientifically valid methods and studies in the analysis of data and field reconnaissance and reference the source of information used. The report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this SMP.
  - b. Minimum report contents. At a minimum, the report shall contain the following:
    - i. Resume of the principal author(s), which disclose(s) their technical training and experience and demonstrates their stature as a qualified professional; the study shall be performed by a professional who is licensed or qualified as an expert in the critical resources at issue.
    - ii. Identification and characterization of the critical area and associated buffers.
    - iii. Assessment of any potential hazards associated with the proposed development.
    - iv. Assessment of the impacts of the development proposal on any critical area.

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- v. Mitigation plan which reduces impacts on the critical area(s) to an insignificant level and specifies maintenance, monitoring, and bonding measures (where necessary) per DMC 15-05.030(B).
  - vi. Additional information and requirements that may be required within each section under DMC 15-05.030.
9. Exempt Uses and Activities.
- a. Exempt activities under DMC 15-05.030 shall avoid impacts to critical areas and critical area buffers. Exempt activities shall use reasonable methods (reasonable methods include BMPs) to avoid potential impacts to critical areas. Being exempt from this section does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.
  - b. In addition to the exemptions described in DMC 15-03.030, the following are exemptions to provisions of DMC 15-05.030; however, the listed exemptions may not be exempt from other state or federal regulations or permit requirements.
    - i. Normal and routine maintenance of public streets, state highways, public utilities, and public park facilities. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area, nor does it include construction of a maintenance road or dumping of maintenance debris. (This means no expansion into new unused areas).
    - ii. Removal of hazardous trees and vegetation and, when necessary, implementation of measures to control or prevent a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, RCW 76.09, provided that no vegetation shall be removed from a critical area or its buffer without approval from the Shoreline Administrator.
    - iii. Activities involving artificially created wetlands or streams intentionally created from non-wetland sites, including, but not limited to, grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except those features that provide critical habitat for anadromous fish and those features that were created as mitigation for projects or alterations subject to the provisions of this section.
    - iv. Existing and ongoing agricultural activities normal or necessary to general farming conducted according to industry-recognized BMPs, particularly as advocated by the Natural Resources Conservation Service (NRCS; refer to the NRCS Field Office Technical Guides for Columbia County, Washington).
      - A. Wetlands. Existing and ongoing agricultural activities do not include removing trees, diverting or impounding water, excavation, ditching, draining, culverting, filling, grading, and similar activities that introduce new adverse impacts to wetlands or other aquatic resources. Conversion of wetlands that are not currently in agricultural use, regardless of their wetland ratings, to a new agricultural use should be subject to the same regulations that govern new development.
      - B. Fish and Wildlife Habitat Conservation Areas. Existing and ongoing agricultural activities do not include tree cutting, road building, new agriculture, grazing, clearing, earth moving, mining, filling, burning, or

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construction of buildings or other facilities in Fish and Wildlife Habitat Conservation Areas.

- v. Passive recreational activities, including, but not limited to, fishing, bird watching, boating, swimming, hiking, and use of nature trails, provided the activity does not alter the critical area or its buffer.
- vi. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, provided the harvesting does not require tilling soil, planting crops, or changing existing topography, water conditions, or water sources.
- vii. Educational and scientific research, provided the activity does not alter the critical area or its buffer.

10. Subdivisions

- a. Any subdivision of land that creates a lot greater in size than 5 acres and is located in a critical area or associated buffer shall comply with the following requirements:
  - i. Land that is located wholly within a wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area, floodway, or the buffers required for these critical areas may not be subdivided.
  - ii. Land that is located partially within a wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area, floodway, or the buffers required for these critical areas may be subdivided, provided that an accessible, contiguous, and buildable portion of each new lot meets the following requirements:
    - A. Located outside of the wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area, floodway, and the buffers required for these critical areas
    - B. Meets the minimum buildable site requirements of the local zoning ordinances, as amended
  - iii. Access roads and utilities serving the proposed subdivision may be permitted within the wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area, or the buffers required for these critical areas only if the Shoreline Administrator determines that no other feasible alternative exists consistent with this SMP.

11. Notice on Title:

- a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the Columbia County records and elections division. The notice shall state the presence of the critical area and/or buffer on the property, of the application of this ordinance to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall run with the land.
- b. This notice on title shall not be required for a development proposal by a public agency or public or private utility under any of the following circumstances:
  - i. Within a recorded easement or right-of-way

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- ii. Where the agency or utility has been adjudicated the right to an easement or right-of-way
      - iii. On the site of a permanent public facility
    - c. The applicant shall submit proof that the notice has been filed for public record before the City jurisdiction approves any development proposal for the property, or in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.
- B. *General Mitigation Requirements*
  - 1. General Mitigation Standards
    - a. This section provides general mitigation requirements applicable to alteration of critical areas. Additional specific mitigation requirements are found under the sections for the particular type of critical area.
    - b. All proposed alterations to critical areas or associated buffers shall require mitigation sufficient to maintain no net loss of ecological function of the critical area, or to prevent risk from a critical area hazard, and shall give adequate consideration to the reasonable economically viable use of the property. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. Mitigation may include buffers, setbacks, limits on clearing and grading, BMPs for erosion control and maintenance of water quality, or other conditions appropriate to avoid or mitigate identified adverse impacts.
    - c. Any approval of mitigation to compensate for impacts on a critical area or its buffer shall be supported by the most current, accurate, and complete scientific and technical information available.
  - 2. Mitigation Sequencing
    - a. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to regulated critical areas or their buffers, unless part of a restoration plan for significantly degraded wetland or stream buffer. The preferred sequence of mitigation shall be according to DMC 15-05.020(A).
  - 3. Mitigation Timing. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts on existing fisheries, wildlife, and water quality.
  - 4. Restoration/Rehabilitation Requirements:
    - a. Restoration/rehabilitation is required when a critical area or its buffers have been altered on a site in violation of City regulations prior to development approval, and, as a consequence, its ecological functions have been degraded. Restoration is also required when the alteration occurs in violation of City regulations during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
    - b. Restoration/rehabilitation is required when the critical area or its buffers will be temporarily altered during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
  - 5. Compensation. The goal of compensation is to achieve no net loss of critical area or buffer functions on a development site. Compensation includes replacement or enhancement of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area or buffer functions. Mitigation shall focus on the best possible outcome for

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compensating for impacts to functions and values within the shoreline environment. The location of the compensatory mitigation action shall be preferred in the order referenced below:

- a. Preferential consideration shall be given to on-site mitigation measures that replace the impacted functions, and in areas where non-native vegetation is present adjacent to existing native vegetation to the extent practicable.
  - b. Off-site compensatory mitigation located in the same county and within the same watershed and that addresses limiting factors or identified critical needs for shoreline resource conservation based on the Shoreline Restoration Plan, or Water Resource Inventory Area (WRIA) or comprehensive resource management plans.
  - c. Off-site compensatory mitigation within the same watershed outside of the county where impacts are proposed.
  - d. Alternative off-site mitigation programs such as mitigation banks or in-lieu fee programs as established by the county or city. This includes future mitigation banking opportunities, developed in coordination with the county or city.
6. Compensation for approved critical area or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan:
- a. The buffer for a created, restored, or enhanced critical area, proposed as compensation for approved alterations, shall be the same as the buffer required for the existing critical area.
  - b. On-site and In-kind. Except as noted in this section or otherwise approved, all critical area impacts shall be compensated through restoration or creation of replacement areas that are in-kind, on-site, and of similar or better critical area category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.
  - c. Off-site and In-kind. The Shoreline Administrator may consider and approve off-site compensation where the applicant demonstrates that greater biological and hydrological functions and values will be achieved. The preferred location for off-site mitigation is areas within or adjoining designated fish and wildlife habitat corridors or as part of other applicable habitat restoration efforts. The compensation may include restoration, creation, or enhancement of critical areas. The compensation ratios specified under the on-site compensation section for each critical area shall also apply for off-site compensation. The Shoreline Administrator may request contractual linkage to the off-site parcel to ensure its availability and landowner willingness.
  - d. Increased Replacement Ratios. The Shoreline Administrator may increase the ratios under any of the following circumstances:
    - i. Uncertainty exists as to the probably success of the proposed restoration or creation due to an unproven methodology or proponent
    - ii. A significant time period will elapse between impact and replication of critical area functions
    - iii. The impact was unauthorized
  - e. Decreased Replacement Ratios. The Shoreline Administrator may decrease the ratios required in the on-site ratios specified under the compensation section of each critical area when all the following criteria are met:
    - i. A minimum replacement ratio of 1:1 will be maintained.
    - ii. Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high rate of success.

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- iii. Documentation by a qualified professional demonstrated that the proposed mitigation actions will provide ecological functions and values that are significantly greater than the critical area being impacted.
    - iv. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
- 7. Critical Area Enhancement as Mitigation
  - a. Impacts on wetland and stream functions may be mitigated by enhancement of existing significantly degraded areas. Applicants proposing to use enhancement must produce a Critical Area Report that identifies how enhancement will increase the functions of the degraded resource and how this increase will adequately mitigate for the loss of critical area and its function at the impact site. An enhancement proposal must also show whether existing critical area functions will be reduced by the enhancement actions.
- 8. Monitoring
  - a. The Shoreline Administrator shall require long-term monitoring of development proposals, unless otherwise accepted where alteration of critical areas or their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall document and track impacts of development on the ecological functions and values of critical areas, as well as the success and failure of mitigation requirements. Monitoring may include, but is not limited, to:
    - i. Establishing vegetation transects or plots to track changes in plant species composition over time
    - ii. Using aerial or other photography to evaluate vegetation community response
    - iii. Sampling surface and groundwater to determine pollutant loading
    - iv. Measuring base flow rates and stormwater runoff to model and evaluate water quantity predictions
    - v. Measuring sedimentation rates
    - vi. Sampling fish and wildlife populations to determine habitat utilization, species abundance, and diversity
    - vii. Sampling of water temperatures for wetlands and streams.
  - b. The Shoreline Administrator may require that a qualified professional, at the applicant's expense, monitor the development proposal site during construction and for a sufficient period of time after construction to ensure satisfactory mitigation of impacts on the critical area. The qualified professional shall monitor per the provisions outlined in the approved mitigation plan based on the conditions or restrictions imposed.
  - c. Performance Bond. Prior to issuance of any permit or approval that authorizes site disturbance, the Shoreline Administrator may require performance security as specified in DMC 15-05.030(B).
- 9. Contingencies/Adaptive Management. When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action. Contingency plans developed as part of the original mitigation plan shall apply but may be modified to address a specific deviation or failure. Contingency plan measures shall be subject to the monitoring requirement to the same extent as the original mitigation measures.

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10. Mitigation Plan. All proposed mitigation components shall be included in the Critical Area Report. In addition to applicable mitigation plan requirements described for each type of critical area in this section, proposed mitigation components shall include:
  - a. A description of specific proposed mitigation, including a delineation of critical areas lost and critical areas gained
  - b. An analysis of avoidance, minimization, reduction, and compensation of impacts to maintain critical area function
  - c. An analysis of how the proposed mitigation will maintain the critical area function and values
  - d. A statement of any ongoing monitoring and/or inspection measures and schedule that may be required, including specification of method and frequency of submittal of reports on results to the City
  - e. A statement of any required critical area expertise necessary to install, monitor, or inspect the proposed mitigation
  - f. A listing of any other security required to ensure performance and/or maintenance of the proposed mitigation
  - g. The Shoreline Administrator shall make the final determination regarding required mitigation. Required mitigation shall be included in an approved mitigation plan.
  
11. Buffers
  - a. As described in more detail in each relevant section, buffers have, in some cases, been determined to be necessary and appropriate to protect critical areas and their functions or to prevent risk from a critical area hazard. In those sections where specific buffers are identified, those buffers are deemed “required” or “standard” buffers. See DMC 15-04.020 for riparian habitat areas (i.e., riparian buffers) and DMC 15-05.030(C) for wetland buffers. If a project or activity does not propose any alteration to those buffers or to the associated critical area, then additional mitigation will not be required to protect the critical area.
  - b. If, however, based on unique features of the particular critical area or its buffer or of the proposed development, the Shoreline Administrator determines that additional buffers and/or mitigation measures beyond these standard buffers are necessary to adequately protect the function of the critical area or to prevent risk of a hazard from the critical area, the Shoreline Administrator may impose such additional mitigation requirements, provided the Shoreline Administrator can demonstrate, based on the most current, accurate, and complete scientific or technical information available, why that additional mitigation or buffering is required to adequately protect the critical area function or to prevent a hazard from a critical area.
  - c. If portions of a parcel that contain a proposed development activity have not had their critical areas and associated buffers delineated because they were outside the project or area affected by the project, pursuant to DMC 15-05.030(A), then additional critical area assessments may be required in the future prior to any change in use or development activity for that portion of the site.
  - d. Further, if the applicant seeks a variance to reduce these buffers or to alter the critical area or its required buffer, then the applicant shall demonstrate, based on the most current, accurate, and complete scientific or technical information available, why such buffer and/or critical area modification, together with such alternative mitigation proposed in the Critical Area Report, is sufficient to achieve no net loss of critical area function. If necessary, variances shall provide for long-term buffer protection. Variance requests shall be reviewed pursuant to DMC 15-03.040.

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- e. The Critical Area Report and the conditions of approval shall provide for long-term buffer protection. Regarding land division, critical areas and their associated buffers may be placed in separate tracts to be owned by all lot owners in common, by a homeowners' association, or some other separate legal entity such as a land trust. However, critical areas and/or buffers identified and defined in this section do not require any provisions for public access, and appropriate restrictions may be included in the easement or title documents. Critical areas and/or buffers identified are, however, subject to periodic inspection by the Shoreline Administrator, upon prior notification to the landowner, to ensure long-term protection.
12. Mitigation Security
- a. The Shoreline Administrator shall have the discretion to withhold issuance of a development permit or approval until required mitigation has been completed. Alternatively, the Shoreline Administrator may require a refundable cash payment that will ensure compliance with the approved mitigation plan if there will be activity (e.g., monitoring or maintenance) or construction to take place after the issuance of the shoreline permit or other approval. The amount of the cash payment shall not exceed 150% of the estimated cost of the uncompleted actions or construction as determined by the Shoreline Administrator. When the Shoreline Administrator determines that the mitigation plan has been successfully completed, the cash payment shall be refunded to the applicant. If the mitigation plan is not successfully completed, the City shall be entitled to keep all or part of the cash payment to the extent necessary to rectify the deficiencies regarding the completion of the mitigation plan.
13. Protection of Designated Critical Areas
- a. Identification and Recording of Critical Areas. Approval of development projects and other land-use activities that require a Critical Area Report pursuant to 15-05.030(A) shall be subject to the identification and designation of all critical areas and their buffers identified in the assessment process. Each critical area shall be clearly defined and labeled to show calculated area and type and/or class of critical area within each lot. The Shoreline Administrator shall require of the applicant that such designated critical areas be recorded on the final plat map or site plan, clearly showing the locations of critical areas, existing vegetation, and buffers.
    - i. Construction Marking. During construction, clearly visible, temporary marking, such as flagging and staking, shall be installed and maintained along the outer limits of the proposed site disturbance outside of the critical area. Such field markings may be field-approved by the Shoreline Administrator prior to the commencement of permitted activities. Markings shall be maintained throughout the duration of any construction activities.
    - ii. Mitigation Signing and Fencing. The Shoreline Administrator may require permanent signing and/or fencing where it is determined a necessary component of a mitigation plan. The intent of this subsection is to provide clear and sufficient notice, identification, and protection of critical areas on-site where damage to a critical area or buffer by humans or livestock is probable due to the proximity of the adjacent activity.
    - iii. Sign, Marker, and Fence Maintenance. It shall be the responsibility of the landowner to maintain, including replacement of, the markers, signs, and fences required under this section in working order throughout the duration of the development project or land-use activity. Removal of required markers, signs, and fences without written approval of the Shoreline Administrator shall be considered a violation of this section.

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C. *Wetlands*

1. Purpose

- a. The purpose of this section is to promote public health and welfare by instituting local measures to preserve naturally occurring wetlands that exist in the City's shoreline jurisdiction for their associated value. These areas may serve a variety of vital functions, including, but not limited to, hydrologic functions, flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education, and scientific research.

2. Classification and Designation

- a. Wetlands shall be identified and delineated using the methods and standards set forth in the currently approved 1987 USACE Federal Wetlands Delineation Manual, as amended, and its regional applicable regional supplements, as amended. (The Arid West Final Regional Supplement was last updated in 2008 at the time of SMP adoption).
- b. Classification and rating of wetlands will be done using the most recent version of the Washington State Wetlands Rating System for Eastern Washington. The most current copy of this document should be used in classifying wetlands and developing wetland mitigation plans.
- c. The following wetlands within the City's shoreline jurisdiction may not be further regulated by this section:
  - i. Areas that may meet the definition of "artificial wetlands" as described herein that are managed and owned by the U.S. Bureau of Reclamation.
  - ii. Wetland areas identified on the National Wetland Inventory maps with an artificial designation when it can be shown that the area(s) noted was (were) intentionally created from a non-wetland site.

3. Determination Process

- a. The following progressive steps will occur upon a determination by the City, per DMC 15-05.030(A), that a wetland area may exist on a site proposed for a shoreline permit.
  - i. The Shoreline Administrator will determine if the proposed activity is within a project area and if there are any possible wetland areas on-site. This determination shall be made following a review of information available, as well as a site inspection and/or a consultation with a qualified wetland biologist, if deemed necessary by the City. If no wetland area is determined to be present, this section shall not apply to the review of the proposed development, unless wetlands are discovered to be present during project development.
    - A. If it is determined by the Shoreline Administrator that wetland areas may be present, a site inspection and consultation with a qualified wetland biologist shall be conducted to more definitively determine if a wetland area exists on the site. If yes, the applicant shall complete a Critical Area Report consistent with DMC 15-05.030(A) and conduct a wetland delineation using the approved Federal Wetlands Delineation Manual and applicable regional supplement and the 2008 USACE Arid West Supplement to the 1987 Wetlands Delineation Manual.

4. Critical Area Report/Wetland Management and Mitigation Plan

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- a. As determined necessary, provided for in this section, a wetland management and mitigation plan shall be required when impacts to a wetland are unavoidable during project development.
- b. Wetland management and mitigation plans shall be prepared by a qualified wetland specialist as defined in DMC 15-02.040, and be prepared per DMC 15-05.030(B) in addition to the requirements included in this section.
- c. The following guidance documents are encouraged to be used in mitigation planning documents:
  - i. Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication #06-06-011a, March 2006)
  - ii. Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-011b, March 2006)
- d. The wetland management and mitigation plan shall demonstrate, when implemented, that there shall be no net loss of the ecological function and values or acreage of the wetland.
- e. The wetland management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer. See DMC 15-05.030(B) for General Mitigation Requirements. Monitoring shall be for a period necessary to establish that performance standards have been met. Generally, plans shall include a 5-year monitoring plan unless a longer timeline is required during the review process. Forested or scrub-shrub communities shall include an 8-year monitoring plan unless a longer time is established during the review process.
- f. The wetland management and mitigation plan shall be developed to be consistent with DMC 15-05.030(B), General Mitigation Requirements, and contain a report that includes, but is not limited to, the following information:
  - i. Location maps, regional 1:24,000 and local 1:4,800.
  - ii. A map or maps indicating the boundary delineation of the wetland; the width and length of all existing and proposed structures, utilities, roads, and easements; wastewater and stormwater facilities; adjacent land uses, zoning districts, and comprehensive plan designations.
  - iii. A description of the proposed project, such as the nature, density, and intensity of the proposed development and the associated grading, structures, utilities, and stormwater facilities, in sufficient detail to allow analysis of such land-use change upon the identified wetland.
  - iv. A detailed description of vegetative, faunal, and hydrologic conditions, soil and substrate characteristics, and topographic features within and surrounding the wetland.
  - v. A detailed description of vegetative, faunal and hydrologic conditions, soil and substrate characteristics, and topographic features within any compensation site.
  - vi. A detailed description of the proposed project's effect on the wetland and the associated hydrology, and a discussion of any federal, state, or local management recommendations that have been developed for the area.
  - vii. A discussion of the following mitigation alternatives as they relate to the proposal. The mitigation alternatives shall be proposed in a manner that considers the

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sequence of steps per DMC 15-05.020(A) to avoid or minimize significant adverse effects and significant ecological impacts.

- viii. A plan by the applicant that explains how any adverse impacts created by the proposed development will be mitigated, including, without limitation, the following techniques:
  - A. Establishment of buffer zones
  - B. Preservation of critically important plants and trees
  - C. Limitation of access to the wetland area
  - D. Seasonal restriction of construction activities
  - E. Establishment of a monitoring program within the plan
  - F. Drainage and erosion control techniques
- ix. A detailed discussion of ongoing management practices, which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency, maintenance, and surety programs.
- x. All reports will be provided in an electronic format (word processor) and all geographic entities (e.g., maps) will be provided in a geo-coded format for use in GIS systems (e.g., ArcView, MapInfo, and AutoCAD).
- g. Mitigation ratios shall be used when impacts to wetlands cannot be avoided. As identified below, the first number specifies the acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered. The mitigation ratios by wetland type are shown in Table 15-05.030I-1.
- h. Wetlands enhancement as mitigation
  - i. Impacts to wetlands may be mitigated by enhancement of existing wetlands. Applicants proposing to enhance wetlands must produce a Critical Area Report that identifies how enhancement will increase the functions of the wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show if existing wetland functions will be reduced by the enhancement actions.

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i. Mitigation Ratios

**Table 15-05.030I-1. Wetland Mitigation Ratios (for Eastern Washington)**

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only <sup>1</sup>	Re-establishment or Creation and Rehabilitation <sup>1</sup>	Re-establishment or Creation and Enhancement <sup>1</sup>	Enhancement Only <sup>1</sup>
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible <sup>2</sup>	6:1 Rehabilitation of a Natural Heritage site	R/C not considered possible <sup>2</sup>	R/C not considered possible <sup>2</sup>	Case-by-case

Notes:

- These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.
- Natural Heritage sites, alkali wetlands, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would, therefore, result in a net loss of some functions no matter what kind of compensation is proposed.

E = Enhancement

R/C = Re-establishment or Creation RH = Rehabilitation

Reference: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10, March 2006. *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1)*. Washington State Department of Ecology Publication #06-06-011a. Olympia, Washington.

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5. Management Recommendation and Standards

- a. Wetlands shall be protected based on their quality established from the rating system and from alterations, which may create adverse impacts. The greatest protection shall be provided to Category I and II Wetlands.
- b. Alteration shall not mean BMPs for agriculture which, by design, could not be considered a change in land use, including, but not limited to, improved chemical application or practice, which is intended to improve crop production and enhance areas adjacent to wetlands.
- c. Activities and construction necessary on an emergency basis to prevent threats to public health and safety may be allowed if reasonable justification warrants cause for a waiver. These activities should avoid impacts to the extent practicable, and mitigation for unavoidable wetland impacts shall be required upon remedy of the emergency.
- d. The City will coordinate wetland preservation strategy and effort with appropriate state and federal agencies and private conservation organizations to take advantage of both technical and financial assistance and to avoid duplication of efforts.
- e. Criteria for Wetland Alterations
  - i. A regulated wetland or its required buffer can only be altered if the wetlands Critical Area Report shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect the wetland function, and maintain no net loss of wetland ecological functions and values as a result of the overall project. Any alteration approved pursuant to this section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland.
- f. Wetland buffers widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland ecological functions and values at the time of the proposed activity. If the vegetation is inadequate, then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land-use intensity, are provided in Table 15-05.030I-3.
  - i. Table 15-05.030I-2 describes the types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.

**Table 15-05.030I-2. Land Use Intensity Table**

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> <li>• Commercial</li> <li>• Urban</li> <li>• Industrial</li> <li>• Institutional</li> <li>• Retail sales</li> <li>• Residential (more than 1 unit/acre)</li> <li>• High-intensity recreation (e.g., golf courses and ball fields)</li> </ul>

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Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
Moderate	<ul style="list-style-type: none"> <li>• Residential (1 unit/acre or less)</li> <li>• Moderate-intensity open space (e.g., parks with biking and jogging)</li> <li>• Paved driveways and gravel driveways serving three or more residences</li> <li>• Paved trails</li> </ul>
Low	<ul style="list-style-type: none"> <li>• Low-intensity open space (e.g., hiking, bird-watching, and preservation of natural resources)</li> <li>• Timber management</li> <li>• Gravel driveways serving two or fewer residences</li> <li>• Unpaved trails</li> <li>• Utility corridor without a maintenance road and little or no vegetation management</li> </ul>

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ii. Buffer widths, based on the types of land use, are provided in Table 15-05.030I-3.

**Table 15-05.030I-3. Wetland Buffer Widths**

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<b>Category IV Wetlands (For wetlands scoring less than 16 points for all functions)</b>		
Score for all three basic functions is less than 16 points	Low – 25 feet Moderate – 40 feet High – 50 feet	No recommendations at this time
<b>Category III Wetlands (For wetlands scoring 16 to 18 points or more for all functions)</b>		
Moderate level of function for habitat (score for habitat 5 to 7 points) *If wetland scores 8 to 9 habitat points, use Category II buffers	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
Score habitat for 3 to 4 points	Low – 40 feet Moderate – 60 feet High – 80 feet	No recommendations at this time
<b>Category II Wetlands (For wetlands scoring 19 to 21 points or more for all functions or having the “Special Characteristics” identified in the rating system)</b>		
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement and low for habitat (score for water quality 8 to 9 points; habitat less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions	Riparian forest wetlands need to be protected at a watershed or subbasin scale; other protection based on needs to protect habitat and water quality functions
Not meeting above characteristic	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time

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Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Vernal pool	Low – 100 feet Moderate – 150 feet High – 200 feet  Or develop a regional plan to protect the most important vernal pool complexes; buffers of vernal pools outside protection zones can then be reduced to: Low – 40 feet Moderate – 60 feet High – 80 feet	No intensive grazing or tilling of wetland
<b>Category I Wetlands (For wetlands scoring 22 points or more for all functions or having the “Special Characteristics” identified in the rating system)</b>		
Wetlands of High Conservation Value	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries; no septic systems within 300 feet of wetland; restore degraded parts of buffer
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Restore degraded parts of buffer; maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement (8 to 9 points) and low for habitat (less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time

- g. Wetland buffers shall be retained in their natural conditions unless change is proposed in a portion of a wetland buffer that will have a positive effect on the wetland or adequate mitigation cannot or will not be provided by pre-development conditions. Integrity of the wetland shall be maintained as a function of the buffer.
- h. Buffer Averaging
  - i. Standard buffer widths may be modified by the Shoreline Administrator for an averaging to improve wetland protection when all of the following conditions are met:
    - A. Buffer averaging is necessary to avoid hardship to the person seeking this option, which is caused by circumstances peculiar to the property, to accomplish the purposes of the proposed development or land-use activity, and no reasonable alternative is available.

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- B. The wetland contains variation in sensitivity due to existing physical characteristics, as confirmed in a Critical Area Report, and the reduction from standard buffer widths will occur only contiguous to the area of the wetland determined to be least sensitive.
  - C. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component, or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.
  - D. The buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion.
  - E. The wetland contains variation in sensitivity due to existing physical characteristics, as confirmed in a Critical Area Report, and the reduction from standard buffer widths will occur only contiguous to the area of the wetland determined to be least sensitive.
  - F. Buffer width averaging will not adversely impact wetland ecological functions and values.
  - G. The total area of the buffer after averaging is equal to the area required without averaging.
  - H. The buffer at its narrowest point is never less than 3/4 of the required width.
- i. Allowed uses in buffers. Low-impact uses and activities, which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity, may be permitted within the buffer depending on the sensitivity of the habitat involved, provided that such activity shall not result in a decrease in wetland ecological functions and values and shall not prevent or inhibit the buffer’s recovery to at least pre-altered condition or function. Examples of uses and activities, which may be permitted in appropriate cases, as long as the activity does not retard the overall recovery of the buffer, include removal of noxious vegetation, pedestrian trails, and viewing platforms.
- i. Trails. Public and private trails may be allowed within wetland buffers where they can be demonstrated in a Critical Area Report that the wetland and wetland buffer ecological functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to all of the following criteria:
    - A. Permeable surface trail alignment shall be located only in the outer 25% of a wetland buffer width, except as needed to access viewing platforms or to cross the wetland. Private trails shall be a maximum of 5 feet wide, but public trails may be as wide as 7 feet if they are part of a regional trail network. Trails may be placed on existing levees, railroad grades, or road grades where those features exist in any part of a wetland buffer and may occupy the full width of the levee, railroad grade, or road grade.

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- B. Trails and associated viewing platforms shall be constructed of pervious materials, unless impervious surfaces are necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in the latest version of the Stormwater Management Manual for Eastern Washington.
  - C. Trail alignment shall avoid trees in excess of 6 inches in diameter of any tree trunk at a height of 4.5 feet above the ground on the upslope side of the tree where feasible.
  - D. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland, or its buffer and other habitat elements, and still provide enjoyment of the resource.
  - E. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas.
- j. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers and DMC 15-06.210 shall apply to utility corridors within wetland buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.
- k. Stormwater Management Facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bio-swales. They may be allowed within the outer 25% of the buffer of Category III or IV wetlands only, provided that:
- i. No other location is feasible, and
  - ii. The location of such facilities will not degrade the functions or values of the wetland.
  - iii. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
- l. Activities or uses that would strip the shoreline of vegetative cover, cause substantial erosion or sedimentation, or affect aquatic life should be prohibited.
- D. Critical Aquifer Recharge Areas**
1. Purpose. The purpose and intent of this section is to safeguard groundwater resources within the shoreline jurisdiction from hazardous substance and hazardous waste pollution by controlling or abating future pollution from new land uses or activities.
  2. Classification. Aquifer recharge areas shall be classified as following:
    - a. Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290- 135.

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- b. Sole Source Aquifers. Sole source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.
  - c. Susceptible Groundwater Management Areas. Susceptible groundwater management areas have been designated in an adopted groundwater management program developed pursuant to WAC 173-100.
  - d. Special Protection Areas. Defined pursuant to WAC 173-200-090.
  - e. Moderately, highly vulnerable, or highly susceptible aquifer recharge areas. Aquifer recharge areas that are moderately, highly vulnerable, or highly susceptible to degradation or depletion due to hydrogeologic characteristics are delineated by a hydrogeologic study prepared in accordance with Ecology guidelines or criteria.
3. Determination Process
- a. The following progressive steps will occur upon a determination by the City, per DMC 15-05.030(A), that a critical aquifer recharge area may exist on a site proposed for a shoreline substantial development permit:
    - i. The Shoreline Administrator will determine if the proposed development activity is within a project area.
    - ii. If it is determined by the Shoreline Administrator that the proposed development activity is within a project area, compliance with DMC 15-05.030(A) and development of a Critical Area Report is required.
4. Standards. The following standards will apply to development proposals determined to be located within critical aquifer recharge areas, as defined and described herein:
- a. Regulated Activities. A site analysis and Critical Area Report is required for uses and activities within shoreline jurisdiction that have the potential to impact aquifer recharge areas.
  - b. Activities proposed within a project area for Critical Aquifer Recharge, shall comply with local, state, and federal agency requirements for each of the following: connections to sanitary sewer systems; on-site sewage disposal systems; connections to public water supplies; existing and proposed wells; and water rights-related issues.
  - c. Surface impoundments, defined by WAC 173-303, are not allowed in shoreline jurisdiction.
  - d. Regulated activities and uses may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not adversely affect the recharging of the aquifer and that the proposed activity will not cause contaminants to enter the aquifer.
  - e. Regulated activities must, at a minimum, comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, Washington State Department of Health, and the local Health Department, as applicable.
  - f. Activities proposed within a critical aquifer recharge area that have a high potential for contamination are not allowed unless it is demonstrated that no other options are feasible. A hydrogeologic study for these proposed activities shall be required and shall be prepared by a qualified geologist. The study shall focus, at a minimum, on the following:
    - i. Geologic setting, site location map, topography, and well logs for the surrounding area
    - ii. Current available data on springs or seeps for the surrounding area
    - iii. Background water quality data

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- iv. Water source/supply to facility
- v. Depth/location of any perched water tables or geological features that could form perch water tables if recharge is increased
- vi. Groundwater flow direction and gradient
- vii. An analysis of physical parameters of the aquifer to include:
  - A. Soil types
  - B. Hydraulic conductivity
  - C. Annual recharge
  - D. Depth to water
  - E. Importance of the Vadose Zone based on the geology above the aquifer
- viii. Description (both qualitative and quantitative) of the impacts the project will have on surrounding wells
- ix. Discussion of the effects of proposed project on groundwater resources
- x. Other information required by the Shoreline Administrator in consultation with other agencies of expertise
- g. Mitigation measures for groundwater protection may be required. Implementation of protection measures to prevent contamination is required. A qualified professional shall discuss potential mitigation measures if the proposed project should have an adverse impact on groundwater resources.
- h. Parks, Schools, and Recreation Facilities. Fertilizer and pesticide management practices of schools, parks, other recreation facilities, and similar uses shall use BMPs as prescribed in DMC 15-05.020(B).
- i. All major and minor developments shall have an informational note placed on the face of plat stating, "This subdivision is located within an aquifer recharge area. BMPs shall be used for the containment of stormwater and the application of pesticides and fertilizers."

*E. Frequently Flooded Areas*

- 1. Purpose
  - a. The purpose of this section is to promote the public health, safety, and welfare of the community by recognizing potential hazards that may be caused by development in areas where severe flooding is anticipated to occur. The intent of this section is to assist with minimizing public and private losses due to flood hazards by avoiding development in frequently flooded areas within the shoreline jurisdiction and implementing protective measures.
- 2. Classification. Classification of frequently flooded areas, according to FEMA minimum requirements, should include, at a minimum, the 100-year floodplain designations of FEMA and the National Flood Insurance Program. The following categories of frequently flooded areas established for the purpose of classification are:
  - a. Floodways. The channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment so the base flood can be carried without substantial increases in flood heights.

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- b. Floodplains. The floodway, special flood hazard areas, and channel migration zones (CMZs), as applicable.
  - c. Special Flood Hazard Areas. The area adjoining the floodway, which is subject to a 1% or greater chance of flooding in any given year and determined by the Federal Insurance and Mitigation Administration.
3. Designation. The project area for the purposes of this section include all City lands and waters within the shoreline jurisdiction that meet the following criteria:
- a. Currently identified as frequently flooded areas by the Federal Emergency Management Agency in a scientific and engineering report (Flood Insurance Study) with accompanying flood insurance rate maps (FIRMs). If and when this study becomes updated to reflect new conditions, designation of frequently flooded areas will include the changes.
  - b. Within the 100-year floodplain, or having experienced historic flooding or CMZ. The CMZ is considered to be that area of a stream channel, which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b).
4. Determination Process
- a. The following progressive steps will occur upon a determination by the City, per DMC 15-05.030(A), that a frequently flooded area may exist on a site proposed for a development permit:
    - i. The Shoreline Administrator will determine if the proposed development activity is within the project area.
    - ii. If it is determined by the Shoreline Administrator that the proposed development activity is within the project area, compliance with the local Flood Damage Prevention Ordinance, as amended, is required. Completion of a Critical Area Report is not required for frequently flooded areas.
5. Management Recommendations and Protection Standards. The following management recommendations and standards will apply to development proposals determined to be located within frequently flooded areas, as defined and described herein:
- a. New development is permitted when sited and designed in a manner that does not alter the direction, velocity, or volume of floodwaters in a manner that adversely impacts other properties within or adjacent to frequently flooded areas.
  - b. All developments must follow the provisions of the City’s flood hazard area codes (DMC Chapter 17-02).
  - c. Water quality standards for frequently flooded areas shall correspond with appropriate state and federal standards.
  - d. CMZs shall be regulated consistent with this section and provisions in DMC 15-05.020.
- F. Geologically Hazardous Areas*
1. Purpose
- a. The purpose of this section is to reduce the threats to public health and safety posed by geologic hazards within the shoreline jurisdiction. The intent is to reduce incompatible development in areas of significant geologic hazard. Development incompatible with geologic hazards may not only place itself at risk, but also may increase the hazard to surrounding development. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction or

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altering mining practices so risks to health and safety are minimized. When technology cannot reduce the risks to acceptable levels, development in the hazard area is best to be avoided.

2. Identification and Designation

- a. Geologically Hazardous Areas shall be designated consistent with the definitions provided in WAC 365-190-080(4). Geologically Hazardous Areas shall include all of the following:
  - i. Erosion hazards
  - ii. Landslide hazards
  - iii. Mine hazards
  - iv. Seismic hazards
- b. Erosion Hazard Areas. Those areas identified as having high or very high water erosion hazard by the U.S. Department of Agriculture Natural Resources Conservation Service as designated by the Natural Resources Conservation Service local office.
- c. Landslide Hazard Areas. Those areas potentially subject to landslides based upon the following combination of geologic, topographic, and hydrologic factors are as follows:
  - i. Areas of historic failure with all of the following characteristics:
    - A. Areas having a 30% slope or steeper, a vertical relief of 30 feet or more, and soil types identified by the Natural Resource Conservation Service as unstable and prone to landslide hazard
    - B. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps or technical reports published by USGS, such as topographic or geologic maps, or the Washington Geological Survey, or other documents authorized by government agencies.
  - ii. Areas with one or more of the following characteristics:
    - A. A gradient of 15% or greater
    - B. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock
    - C. Springs or groundwater seepage
    - D. Areas that have shown movement during the Holocene Epoch or which are underlain or covered by mass wastage debris of the epoch
    - E. Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials
    - F. Slopes having gradients greater than 80% subject to rockfall during seismic shaking
    - G. Areas potentially unstable as a result of rapid stream incision and streambank erosion

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- H. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding
  - I. Any area with a slope of 40% or steeper and with a vertical relief of 10 or more feet, except areas composed of solid rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.
- d. Mine Hazard Areas. Those areas that fall within 100 horizontal feet of a mine opening at the surface or an area designated as a mine hazard area by the Washington State Department of Natural Resources (DNR).
  - e. Seismic Hazard Areas. Those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting, include the following characteristics:
    - i. Areas having a potential for soil liquefaction and soil strength loss during ground shaking.
    - ii. Areas located on a Holocene fault line identified by USGS investigative maps and studies.
  - f. Seismic hazards shall be identified in the Washington State DNR seismic hazard susceptibility maps for Eastern Washington and other geologic resources.
3. Mapping of Geologically Hazardous Areas
- a. The approximate location and extent of Geologically Hazardous Areas may be shown in the following resource maps:
    - i. USGS landslide hazard, seismic hazard, and volcano hazard maps
    - ii. DNR Washington Geologic Information Portal maps
    - iii. FEMA flood insurance maps
  - b. These maps are to be used as a guide for the City, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.
4. Determination Process
- a. Determination of Need for Geologic Hazard Area Report. A Geologic Hazard Area Detailed Study of a geologic hazard area shall be required if the following indicators are present:
    - i. The project area is included in the resources listed previously as possessing either a Known or Suspected Risk for erosion, landslide, flood, seismic, or mine hazard.
    - ii. The project area is included in the resources listed previously as possessing an Unknown Risk for erosion, landslide, flood, seismic, or mine hazard and any of the following conditions are identified by the applicant or City:
      - A. A qualified geologist finds that any of the following exist: evidence of past significant events of the hazard in question on or adjacent to the site; the presence of necessary and sufficient factors for events of the hazard in question on or adjacent to the site; or reasonable uncertainty concerning the hazard the potential for significant risk to or from the proposed activity.

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- B. The Shoreline Administrator possesses a reasonable belief that a geologic hazard may exist. Such reasonable belief shall be supported by a site visit and subsequent consultation with a qualified geologist.
5. Geotechnical Report. The Shoreline Administrator may require a Geotechnical Report prepared by a civil engineer or geologist who is licensed to practice in the State of Washington. The Geotechnical report shall include the following information:
- a. A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, and utilities.
  - b. Classification of the type of hazard that exists.
  - c. Site plan that depicts the following information: location of all proposed improvements; height of slope; slope gradient; cross section of the site; location of springs, seeps, or other surface expressions of groundwater; and any evidence of surface or stormwater runoff.
  - d. A geotechnical evaluation that includes, at a minimum, a description and/or evaluation of all of the following information:
    - i. Site location, topography, drainage, and surface waterbodies.
    - ii. Soils and geologic units underlying the site.
    - iii. An assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties. Soil analysis shall be accomplished in accordance with the Unified Soil Classification System.
    - iv. Determination of height of slope and slope gradient, including slope cross sections.
    - v. A description of load intensity, including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural development.
    - vi. An estimate of slope stability and the effect construction and placement of structures will have on the slope throughout the estimated life of the structure.
    - vii. An estimate of the bluff retreat rate, which recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event.
    - viii. An assessment describing the extent and type of vegetation.
    - ix. A detailed description of the project, its relationship to geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
  - e. A proposed mitigation plan pursuant to DMC 15-05.030(B).
  - f. Qualifications of Qualified Geologist. Critical Area Reports prepared pursuant to this section shall be prepared by a professional engineer licensed in the State of Washington, trained and qualified to analyze geologic, geotechnical, hydrologic, and groundwater flow systems, or a geologist or geotechnical engineer who has received a degree from an accredited 4-year college or university and who has relevant training and experience in analyzing geologic, geotechnical, hydrologic, and groundwater flow systems. Such qualifications shall be demonstrated to the satisfaction of the Shoreline Administrator.



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- B. Stormwater retention and detention systems, including infiltration systems utilizing buried pipe, may be used if a geotechnical assessment indicates such a system shall not affect slope stability and the system is designed by a licensed civil engineer; the licensed civil engineer shall also certify that the system is installed as designed.

iv. Buffers

- A. An undisturbed 30-foot buffer, as measured on the top surface, is required from the top, toe, and along all sides of any existing landslide or erosion hazard areas.
- B. Based on the results of a geotechnical assessment, the Shoreline Administrator may increase or decrease the buffer.
- C. The buffer shall be clearly staked before any construction or clearing (grading) takes place.
- D. Normal non-destructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these buffer requirements.

v. Design Guidelines

- A. Foundations shall conform to the natural contours of the slope and foundations should be stepped or tiered where possible to conform to existing topography.
- B. Roads, walkways, and parking areas shall be designed with low gradients or be parallel to the natural contours of the site.
- C. To the extent practicable, access shall be in the least sensitive area of the site.
- D. Structures and improvements shall be clustered to avoid Geologically Hazardous Areas and other critical areas.
- E. Structures and improvements shall minimize alterations to the natural contours of the slope, and foundations shall be tiered where possible to conform to existing topography.
- F. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.
- G. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties.
- H. New development that would require structural shoreline stabilization throughout the life of the development is prohibited except when the applicant can demonstrate that stabilization is necessary to protect

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allowed uses where no alternative locations are available and no net loss of ecological functions will result.

- I. The use of a retaining wall that allows the maintenance of existing natural slopes is preferred over graded artificial slopes.
  - J. Development shall be designed to minimize impervious lot coverage.
  - K. New development, or the creation of new lots, that would cause foreseeable risk from geological conditions to people or improvements during the life of the development is prohibited.
- b. Additional Standards for Erosion and Landslide Hazard Areas
- i. No critical facilities shall be constructed or located within an erosion or landslide hazard area.
  - ii. No new structures shall be located on a permanent foundation within an erosion or landslide hazard area, unless the foundation is located at a distance landward of the OHWM that is greater than or equal to the amount of land that is expected to erode within the next 30 years as determined by the Shoreline Administrator.
  - iii. New septic system drainfields in an erosion hazard area shall be located landward of any new structure.
- c. Mine Hazard Areas. Development within a mine hazard area is prohibited.
- d. Seismic Hazard Areas. Development within areas that meet the classification criteria for seismic hazard areas shall comply with the Uniform Building Code requirements for Seismic Risk Zone 2a.
- e. Mitigation. When mitigation is required by this section, a mitigation plan shall be prepared by a qualified geologist and shall include the following information:
- i. A discussion on how the project has been designed to avoid and minimize the impacts to Geologically Hazardous Areas
  - ii. A recommendation for the minimum building setback from any bluff edge and/or other geologic hazard, based upon the Geotechnical Report
  - iii. The location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan, and/or other means for maintaining long-term stability of slopes
  - iv. Address the potential impact of mitigation on the hazard area, the subject property, and proposed improvements and affected adjacent properties
  - v. A temporary erosion and sedimentation control plan
  - vi. A drainage plan for the collection, transport, treatment, and discharge of surface water
  - vii. Demonstration of compliance with this section

*G. Fish and Wildlife Habitat Conservation Areas*

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1. Purpose
  - a. The purpose of this section is to provide a framework to evaluate the development, design, and location of buildings to ensure critical fish and wildlife habitat within the shoreline jurisdiction is preserved and protected, in order to ensure no net loss of ecological function and avoid habitat fragmentation. These regulations seek to protect critical habitat areas so populations of endangered, threatened, and sensitive species are given consideration during the shoreline development review process.
2. Identification and Designation
  - a. The following information, data, and resources are used by the City to identify and designate Fish and Wildlife Habitat Conservation Areas, as defined below.
    - i. Areas within which federal and/or state-listed threatened or endangered fish or wildlife species exist, or state-sensitive, state-candidate, and state-monitor species have a primary association, and as designated under the Federal Endangered Species Act or within the WAC 232-12 (Priority Species and Habitats).
    - ii. Riparian Habitat Areas. For the protection of habitat along rivers, streams, and lakes, the riparian habitat area (buffer) widths provided in DMC 15-04.020 apply.
    - iii. Naturally occurring ponds fewer than 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
    - iv. The following important habitat areas, which are not based on use by a specific species, include those areas protected by their conservation ownership or management status, in addition to the protection standards within this section:
      - A. National wildlife refuges, national monuments, natural area preserves, or any preserve or reserve designated under WAC 332-30-151
      - B. State natural area preserves or natural resource conservation areas identified by state law and managed by DNR
    - v. Mapping information sources for identification of Fish and Wildlife Habitat Conservation Areas include, but are not limited, to:
      - A. WDFW Priority Habitat and Species maps
      - B. Wetlands mapped under the National Wetland Inventory by the U.S. Department of Interior, Fish and Wildlife Service
      - C. WDFW/DNR, Washington Rivers Inventory System maps
      - D. Maps and reference documents in the City SMP Inventory, Analysis, and Characterization Report, as applicable
    - vi. The City allows for the nomination of Species/Habitats of Local Importance. In order to nominate Species/Habitats of Local Importance as candidates for designation within the category of Important Habitat Areas, an individual or organization must:
      - A. Demonstrate a need for special consideration

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- B. Propose relevant management strategies considered effective and within the scope of this section
  - C. Provide species habitat location(s) on a map (scale of 1:24,000)
- vii. It is recognized that the list of Fish and Wildlife Habitat Conservation Areas (including species and habitats) will change from time to time. Further, the locations of species may also change over time. With this, the Shoreline Administrator will maintain and update, as necessary, a list and mapping data of federal and state threatened, endangered, sensitive, monitoring, and candidate species and habitats for the City. Coordination with the necessary federal and state agencies will need to occur to obtain the applicable data updates. Restrictions may apply as to the City's ability to disseminate, both written and mapped sensitive fish and wildlife information, to the general public.
3. Determination Process
- a. The Shoreline Administrator will review each development permit application in accordance with DMC 15-05.030(A) to determine if the provisions of this section will be applied to the project.
  - b. In making the determination, the Shoreline Administrator may use any of the inventories or reference maps identified previously.
  - c. The following progressive steps will occur upon a determination by the Shoreline Administrator, per DMC 15-05.030(A), that Fish and Wildlife Habitat Conservation Area may exist on a site proposed for a development permit.
    - i. The Shoreline Administrator will determine if the proposed development activity is within the project area. If the proposal is in or near the project area, a site inspection and consultation with federal and/or state wildlife agency personnel or a qualified biologist may be conducted to more definitively determine if a Fish and Wildlife Habitat Conservation Area exists on the site if deemed necessary by the City.
    - ii. If it is determined by the Shoreline Administrator that the proposed development activity is within the project area, compliance with DMC 15-05.030(A) and development of a Critical Area Report is required. If it is determined that the activity is not in the project area, this section shall not apply to the review of the proposed permit activity.
4. Fish/Wildlife Habitat Assessment and Identification
- a. If it is determined through the process identified herein that a Fish and Wildlife Habitat Conservation Area exists on a site that is the subject of a development permit application, a fish/wildlife habitat boundary survey and evaluation shall be conducted by a professional biologist, as appropriate, who is knowledgeable of fish and wildlife habitat within the region. The fish and wildlife habitat boundary shall be field staked, as necessary, by the biologist and identified on all final plats, maps, and associated documentation.
  - b. The fish/wildlife habitat boundary and any associated buffer or riparian habitat area shall be identified on all plats, maps, plans, and specifications submitted for the project.
5. Fish/Wildlife Habitat Management and Mitigation Plan
- a. A fish/wildlife habitat management and mitigation plan is required for all proposed developments determined to be within a Fish and Wildlife Habitat Conservation Area.

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- b. When required, a fish/wildlife habitat management and mitigation plan shall be prepared by a professional biologist who is knowledgeable of fish and wildlife habitat within the region.
  - c. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, that the net loss of ecological function of habitat requirement is met.
  - d. Based on the most current scientific and technical information, per DMC 15-05.030(A), the fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the Fish and Wildlife Habitat Conservation Area and any associated buffer or riparian habitat area.
  - e. The fish/wildlife habitat management and mitigation plan shall include maps and narrative descriptions that address the mitigation sequencing per DMC 15-05.020(A).
  - f. A plan by the applicant that explains how any adverse impacts created by the proposed development will be mitigated, shall include, but not be limited to, the following techniques:
    - i. Use of any federal, state, or local management recommendations which have been developed for the species or habitats in the area
    - ii. Application of appropriate and adequate riparian habitat areas or buffers (see DMC 15-04.020)
    - iii. Preservation of critically important plants and trees
    - iv. Limitation of access to the habitat conservation area
    - v. Seasonal restriction of construction activities
    - vi. Establishment of a timetable for periodic review of the plan
  - g. A detailed discussion of ongoing management practices which will protect the habitat conservation area after the project site has been fully developed, including proposed monitoring, contingency, maintenance, and surety programs.
6. Protection Standards
- a. No development permit or approval pursuant to this section shall be granted unless adverse effects to Fish and Wildlife Habitat Conservation Areas resulting from proposed development activities located within shoreline jurisdiction and within a designated Fish and Wildlife Habitat Conservation Areas are mitigated pursuant to DMC 15-05.030(B).
  - b. Fish and Wildlife Habitat Conservation Areas shall be protected in accordance with the Shoreline Administrator's determination of appropriate conditions and site-specific information supplied by the applicant. In making such a determination, the Shoreline Administrator may solicit and consider comments and recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development. Possible conditions may include the following:
    - i. Applying riparian habitat areas or buffers
    - ii. Preservation of critically important vegetation
    - iii. Limitation of access to the habitat conservation area
    - iv. Seasonal restriction(s) for construction activities

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- c. Buffers. Fish and Wildlife Habitat Conservation Area buffers and riparian habitat areas shall be applied consistent with the methodology provided in paragraph (h) below and standards provided in DMC 15-04.020.
- d. Special Provisions – Anadromous Salmonids
  - i. Activities, uses, and alterations proposed to be located in waterbodies used by anadromous salmonids, or in areas that affect such waterbodies, shall give special consideration to the preservation and enhancement of anadromous salmonid habitat, including, but not limited to, the following:
    - A. Activities shall be timed to occur only during the allowable work window, as designated by the WDFW.
    - B. The activity is designed so that it will minimize the degradation of the functions or values of the fish habitat or other critical areas.
    - C. Any impact on the ecological functions and values of the habitat conservation area are mitigated in accordance with an approved Critical Area Report.
  - ii. Structures that prevent the migration of anadromous salmonids shall not be allowed in the portion of the waterbodies currently used by salmonids. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and prevent juveniles migrating downstream from being trapped or harmed.
  - iii. Fills waterward of the OHWM, when authorized, shall minimize the adverse impacts on anadromous salmonids and their habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses or for uses that enable public access or recreation for significant numbers of the public.
- e. Special Provisions – Wildlife. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).
- f. Special Provisions – Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland development performance standards set forth in DMC 15-05.030(C), in addition to meeting the habitat conservation area standards in this section.
- g. Special Provisions – Riparian Habitat. Unless otherwise allowed in this section, all structures and activities shall be located outside of the riparian habitat areas.
- h. Variable Buffer Widths. The methodology for applying a variable buffer approach to determine buffer or riparian habitat area widths includes the following steps:
  - i. Determine (approximate) the location of the OHWM or top of bank (as applicable) for the parcel of the proposed development. For this method, the OHWM is assumed to be the area next to the stream channel where the vegetation stops and the rock and cobble of the channel begins, or the top of bank in steep bank conditions, as applicable. Aerial imagery provided to the Counties as part of the dataset developed for the SMP update is the imagery that is to be used to identify the OHWM or top of bank. A site visit, in addition to consulting aerial imagery, is recommended.

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- ii. Confirm the development proposal is outside of 200 feet of the shoreline approximated OHWM, or outside of established conservation easements. If the development is outside of these boundaries, then no further work to identify riparian areas is required. If a development is proposed within 200 feet of the approximated OHWM, then proceed to Step iii.
- iii. Determine the presence of any known or suspected wetland, steep slope areas, CMZs, priority habitat or species mapping, or other potential condition identified next to or along the shoreline adjacent to the proposed development. If yes, then address requirement(s) associated with one or more of these conditions, and apply applicable protection conditions. Is the development still expected to occur within 200 feet of the OHWM? If yes, then go to Step iv. If no, then stop this procedure, as these other requirements are also protective of riparian functions.
- iv. Is there a functional break wholly within 200 feet of the OHWM (established road, railroad bed, parking area or other similar continuous development feature that provides a continuous functional break in the riparian area) that extends along the edge of the proposed development area/parcel between the site development area and the waterbody? If no, proceed to Step v. If yes, then establish the riparian area upland boundary to the waterward edge of the facility maintenance area (disturbed area). Development would need to be located on the landward side of the functional break.
- v. Delineate the upland extent of the riparian area as defined above— the area where there is a distinct change in species composition and vegetation structure—using the 2013 aerial imagery (as provided in the GIS dataset provided to each of the Counties as part of the SMP update). Measure directly adjacent and waterward of the proposed development on a horizontal plane from the approximate OHWM to the edge of the riparian area. The line along the edge of the riparian area could be highly variable within a given parcel, as the area where the change in vegetation occurs is based on the underlying topographic elevation and area where the waterbody influences riparian vegetation growth. For example, in some areas, the vegetation could extend out to 200 feet or more and in others it could be much narrower.
- vi. Add 15 feet beyond the edge of the riparian area (up to 200 feet) and draw a line delineating the preliminary location of the riparian habitat area or buffer outer boundary.
- vii. Share findings with Ecology for review and comment.
- viii. Address Ecology’s comments and come to agreement on the riparian area extent and associated outer riparian habitat area or buffer boundary.
- ix. Condition the development to occur outside the riparian habitat area or buffer and apply other conditions as applicable, and copy Ecology on the approval with conditions documentation.
- x. Additional setbacks for structures or other facilities would be added on to identified riparian habitat area or buffer width, as applicable.
- xi. Buffers in Conjunction with Other Critical Areas. Where other critical areas defined in this section fall within the waterbody buffer, the riparian habitat area or buffer area shall be the most beneficial of the buffers applicable to any applicable critical area.

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- i. Administrative Buffer Width Averaging. The required riparian habitat area or buffer widths established in this title may be modified by the Shoreline Administrator for a development on existing legal lots of record in place at the time of adoption of this SMP, in accordance with the provisions of this section only where the applicant demonstrates all of the following:
  - i. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.
  - ii. The designated riparian habitat area or buffer contains variations in sensitivity to ecological impacts due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation.
  - iii. The total area contained within the riparian habitat area or buffer after averaging is no less than that contained within the standard buffer prior to averaging.
  - iv. The riparian habitat area or buffer width is not reduced by more than 25% in any location at its narrowest point.
  - v. The riparian habitat area or buffer width averaging does not result in a net loss of ecological function.
- j. Buffer Reductions. Riparian habitat areas and buffers may be administratively modified as outlined below:
  - i. Where a legally established road or railway, or other type of continuous development, crosses or extends along a riparian habitat area or buffer and is wider than 20 feet, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved continuous development, provided the upland side of the continuous development area meets all of the following criteria:
    - A. Does not provide additional protection of the shoreline waterbody or stream
    - B. Provides little (less than 20%) to no biological, geological, or hydrological buffer functions relating to the riparian and upland portions of the buffer
  - ii. Standard Buffer Reduction. Reductions of up to 25% of the standard riparian habitat area or buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that a mitigation plan developed by a qualified professional pursuant to DMC 15-05.030(B) indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features, or other means) will result in a reduced buffer that functions at a higher level than the standard buffer.
- k. In-fill Development. In an effort to facilitate in-fill development in approved plats, the City may approve requests to reduce the standard riparian habitat area or buffer width up to a maximum of 50% for a new single-family residence and appurtenant structures in accordance with the following criteria:
  - i. Where there are single-family residences within 200 feet on either side of the proposed residence in an existing plat, the riparian habitat area or buffer shall be determined as the greater of one of the following three options:
    - A. A common line drawn between the nearest corners of the nearest residence,

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- B. A common line calculated by the average of the nearest residence's existing buffer, or
      - C. A 50% reduction of the standard buffer.
    - ii. Where there is only a residence located within 200 feet on one side of the proposed residence in an existing plat, the standard riparian habitat area or buffer shall be determined as the greater of one of the following three options:
      - A. A common line drawn between the nearest corner of the nearest residence and the nearest point of the standard buffer on the adjacent vacant lot,
      - B. A common line calculated by the average of the nearest residence's setback and the standard buffer for the adjacent vacant lot, or
      - C. A 50% reduction of the standard buffer.
  - I. Proposed developments or land-use activities located within the shoreline jurisdiction and within a designated Habitat Conservation Area shall be reviewed for potential habitat impacts, considering the recommendations provided by Ecology, WDFW, and any Technical Interdisciplinary Team participating in review for the proposed development.
  - m. Allowed uses in Fish and Wildlife Habitat Conservation Areas and Riparian Habitat Areas
    - i. Roads, Bridges, and Utilities. Road, bridge, and utility maintenance, repair, and construction may be permitted across a Fish and Wildlife Habitat Conservation Area and/or buffers under all of the following conditions:
      - A. It is demonstrated to the Shoreline Administrator that there are no alternative routes that can be reasonably used to achieve the proposed development.
      - B. The activity will have minimum adverse impact to the Fish and Wildlife Habitat Conservation Area.
      - C. The activity will not significantly degrade surface or groundwater.
      - D. The intrusion into the Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated to achieve no net loss of ecological functions.
    - ii. Limited park or recreational access to a Fish and Wildlife Habitat Conservation Area and/or riparian habitat area, provided that all of the following are satisfied:
      - A. The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function.
      - B. The access is limited to the minimum necessary to accomplish the recreational function.
      - C. The intrusion is fully mitigated to achieve no net loss of ecological functions.

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- iii. Low-impact uses and activities that are consistent with the purpose and function of the stream setback and do not detract from its integrity. Examples of low-impact uses and activities include removal of noxious vegetation and stormwater management facilities such as grass-lined swales.
- n. Temporary and permanent erosion and sedimentation controls shall be provided to prevent the introduction of sediments or pollutants to waterbodies or watercourses within the Habitat Conservation Area.
- o. Clearing and grading shall be limited to that necessary for establishment of the use or development and shall be conducted to avoid significant adverse impacts and minimize the alteration of the volume, rate, or temperature of freshwater flows to or within the Habitat Conservation Area and any riparian habitat area or buffer required by this section.
- p. The proposed development shall not discharge hazardous substances to the Habitat Conservation Area that would have significant adverse impacts on that area.
- q. Stream flows shall be protected from changes to the normal flow, temperature, turbidity, and discharge to the maximum extent practicable.
- r. Septic drainfields and any required replacement drainfield area shall be at least 100 feet from the edge of any Habitat Conservation Area.
- s. Exceptions to the above protection standards may be allowed by the Shoreline Administrator based on a special report prepared by a qualified professional that demonstrates that such exception would not adversely impact the habitat system and achieve no net loss of ecological function of the Habitat Conservation Area.
- t. Activities may only be permitted in a stream or riparian habitat area if the applicant can show that the proposed activity will not degrade the ecological functions and values of the stream, riparian habitat area, or other critical area or buffer.
- u. Stream Crossings. Stream crossings shall be minimized, but when necessary, they shall conform to the applicable provisions of this SMP and other laws (see WDFW or Ecology).
- v. Stormwater Conveyance Facilities. Stormwater conveyance facilities may be permitted, provided that they are only located in the riparian habitat area or buffer when no practicable alternative exists outside the buffer. Stormwater facilities shall be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used.
- w. Floodway-dependent Structures. Floodway-dependent structures or installations may be permitted within streams or riparian habitat areas if allowed or approved by other ordinances or other agencies with jurisdiction. See DMC 15-05.030€ for more information on allowed uses and activities within flood hazard areas.
- x. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within riparian habitat areas. Outer buffer trails may not exceed 10 feet in width and may be constructed with impermeable surface materials if on-site infiltration is utilized.
- y. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers shall apply to utility corridors within riparian habitat areas. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall

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be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.

- z. No net effective impervious surfaces may be created in the outer buffer area beyond what is otherwise permitted.
  - aa. No structures or related improvements, including buildings or decks, shall be permitted within the riparian habitat area except as otherwise specifically allowed elsewhere in this title.
7. Vegetation Management Actions. Vegetation management activities are regulated within a riparian habitat area, and some activities are allowed without approval while others require an approved vegetation management plan.
- a. Activities that do not require a vegetation management plan and are allowed without a shoreline permit or letter of exemption include:
    - i. Invasive species/noxious weed control within riparian habitat area, if the criteria listed below are met:
      - A. Hand removal or spraying of plants only;
      - B. No area-wide vegetation removal/grubbing;
      - C. Avoid impacts to native vegetation; and
      - D. Reseed and replant with native plants (see approved list).
    - ii. Trimming of tree branches located up to 6 feet vertically off the ground, not to exceed thirty percent (30%) of a tree's limbs. No tree topping shall occur.
    - iii. Removal of hazard trees as necessary due to dead, dying or disease, danger or impacts to property, provided the removed trees are replaced at a 2:1 ratio with species per the attached list. A determination of a hazard tree must be made by a qualified professional.
  - b. Except for vegetation management as part of USACE-required levee maintenance, projects that propose to remove healthy native and non-native vegetation (excluding noxious/invasive species) within a riparian habitat area shall provide a vegetation management plan consistent with requirements in subsection (7)l, and meet the following standards:
    - i. Applicant must demonstrate to the Shoreline Administrator's satisfaction that the proposed vegetation removal is consistent with No Net Loss and Mitigation Sequencing.
    - ii. Vegetation shall be replaced per the following:
      - A. 1:1 area ratio for herbaceous vegetation;
      - B. 2:1 stem ratio for shrubs and saplings; and
      - C. 3:1 ratio for trees greater than 6 inches in diameter at chest height
    - iii. All removed native vegetation shall be replaced with native vegetation; removed ornamental species or other desirable non-native vegetation may be replaced with similar species;

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- iv. Approved vegetation removal actions may include the development of:
  - A. Up to one 20-foot-wide water-view corridor per lot. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.
  - B. Access to the water (up to 5 feet wide) for private trails or paths, provided there is associated mitigation implemented to offset impacts on a 2:1 replacement ratio. Pervious materials are preferred over impervious materials.
- c. Vegetation management plan requirements and standards:
  - i. The vegetation management plan shall be prepared by a qualified professional (certified arborist, ecologist, licensed landscape architect, or similar professional) submitted for projects.
  - ii. A vegetation management plan shall be required for activities that propose to remove either of the following anywhere within the riparian habitat area:
    - A. One or more mature, healthy trees greater than 6 inches in diameter at chest height; or
    - B. More than 10 square feet of native shrubs and/or native ground cover at any one time by clearing, grading, cutting, burning, chemical means, or other activities.
    - C. None of the above shall be allowed more than once per calendar year
  - iii. A vegetation management plan shall contain the following:
    - A. The distribution of existing plant communities in the area proposed for clearing and/or grading;
    - B. Areas to be preserved;
    - C. Areas to be cleared; and
    - D. Trees to be removed along with species and size.
    - E. A description of the existing vegetative condition of the site that addresses the following:
      - 1. Plant species;
      - 2. Plant density;
      - 3. Relative health of the plant community;
      - 4. Presence and extent of any natural or man-made disturbances;

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- 5. Presence of vegetation overhanging the shoreline; and
  - 6. The presence and distribution of noxious weeds.
  - F. A mitigation planting plan showing proposed planting, including the species, distribution, and density of plants.
  - G. Monitoring and maintenance plans, including performance standards and survivability goals consistent with the requirements of DMC 15-05.030(B).
- d. Vegetation Management for Existing Utility Corridors
- i. Vegetation management plans for public right-of-way maintenance corridors associated with under- or above-ground utilities are required, and shall be submitted to the Shoreline Administrator, for review and comment prior to vegetation maintenance activities being conducted.
  - ii. The plan should identify measures to avoid, minimize, and reduce adverse vegetation and habitat effects while allowing maintenance necessary for the utilities to reliably function.
  - iii. A period of at least 30 days must be provided for the Shoreline Administrator review and comment on the plan prior to maintenance activities beginning.

**15-05.040. Public access.**

- A. Public access shall be required for all public shoreline development and uses, except where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable. In addition to any other requirements regarding a written determination by the Shoreline Administrator under this title, any determination by the Shoreline Administrator regarding public access shall specifically include written findings and conclusions regarding his/her determination of infeasibility and/or the constitutional or other legal limitations.
- B. With respect to private shoreline development and uses, the physical access requirements of this title are not intended to require property owners to increase the public's physical access to shorelines beyond the additional demand generated by any development for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels. With respect to future development on private property, the fundamental principle underlying this title's public access provisions is that development on private property should not result in a net loss of the public's existing rights to visual and physical access to the shorelines.
- C. Requirement of public access to shorelines does not confer the right to enter upon or cross private property, except for dedicated and marked public easements.
- D. Subject to the limitations set forth above in [section] 15-05.040(B)(13), new private shoreline development should provide public access except for in the following conditions:
  - 1. A single-family residence;
  - 2. Multi-family development containing four dwelling units or fewer;
  - 3. Residential subdivisions of four parcels or fewer; or

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4. Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.
- E. If not excepted in subparagraphs A through C above, a private shoreline development or use that does not provide public access may be authorized provided the applicant demonstrates, and the Shoreline Administrator determines, that all reasonable means to providing public access have been exhausted, including, but not limited to:
1. Regulating access by such means as limiting use to daylight hours;
  2. Designing separation of uses and activities with such means as fences, terracing, hedges, or landscaping; or
  3. Providing access that is physically separated from the proposal.
  4. In addition, the applicant must demonstrate, and the Shoreline Administrator must determine, that one or more of the following apply:
    - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any feasible means;
    - b. Security requirements cannot be satisfied through the application of alternative design features or other solutions;
    - c. The feasibility of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the benefit derived from the public access being provided; or
    - d. Unacceptable environmental harm, such as damage to fish spawning areas will result from the public access that cannot be mitigated.
- F. New public facilities shall be designed in such manner that the facility, or part of the facility, is readily accessible to and usable by individuals with disabilities; however, full compliance with this regulation is not required where it is structurally impracticable to meet the requirements due to the unique characteristics of terrain.
- G. Public access sites shall be connected directly to the nearest public street.
- H. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
- I. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running with the land. Said recording with the Columbia County Recorder's office shall occur at the time of permit approval, prior to permit issuance, or with recording of the land division.
- J. Physical public access shall be designed to prevent significant impacts to natural systems by employing low-impact development techniques and BMPs.
- K. Public access requirements on privately owned lands should be proportional with the scale and character of the development.

### ***CHAPTER 15-06. SPECIFIC SHORELINE USE REGULATIONS***

#### **15-06.010. General regulations.**

The following regulations apply to specific types of development that may be proposed in the shoreline management area of the city. A proposal can consist of more than one type of development. In addition, all

specific shoreline development must be consistent with the shoreline environment designations, the shoreline master program as an element of the comprehensive plan, and the regulations contained in this title.

**15-06.020. Existing structures.**

- A. If, at the time of enactment of the SMP, existing and legally established residential structures in the shoreline residential environment (SRE) designation or urban conservancy environment (UCE) designation encroach into the riparian habitat area, the riparian habitat area will wrap around the existing structure to its full depth to protect shoreline vegetation and to retain the maximum amount of ecological function. A 15-foot building setback area (BSA) will surround the structure within the riparian habitat area for the purpose of allowing outdoor use next to the residence and for structure maintenance. The residence itself will be considered a conforming structure. Any existing residence located within the riparian habitat area cannot be expanded further into the riparian habitat area without a conditional use permit.
- B. If, at the time of enactment of the SMP, existing and legally established commercial structures in the shoreline commercial environment (SCE) designation encroach into the riparian habitat area, the setback will wrap around the existing structure to its full depth to protect shoreline vegetation and to retain the maximum amount of ecological function. A ten-foot buffer will surround the structure within the riparian habitat area for the purpose of structure maintenance. The commercial structure itself will be considered a conforming structure. Any commercial structure that encroaches into the riparian habitat area cannot be expanded further into the riparian habitat area without a conditional use permit.

**15-06.030. Existing uses.**

Uses that are not allowed under the new SMP but exist in relation to legally established residential or industrial structures become nonconforming uses at the time of enactment of the SMP.

**15-06.040. Reserved.**

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**15-06.050. Permitting standards within shoreline environment designations.**

Permitting Standards Within Shoreline Environment Designations						
Shoreline Permit Type Required SD: Substantial Development Permit CU: Conditional Use Permit X: Prohibited and not eligible for Variance or Conditional Use permit N/A: Not Applicable E: Written Statement of Exemption Need for Variance is determined by type and extent of non-compliance with SMC	Aquatic	High Intensity	Natural	Shoreline Commercial	Shoreline Residential	Urban Conservancy
Shoreline Stabilization (Armoring)						
New structure for new development or for land subdivision	X	SD or E	X	SD	SD or E	SD or E
Enlarged structure for new development or for land subdivision	CU	SD or E	CU	SD	SD	SD
New or enlarged structure to protect existing structures, projects for the restoration of ecological functions or hazardous substance remediation projects	CU	SD	CU	SD	SD	SD
Replace existing shoreline stabilization structures	SD	SD or E	SD	SD or E	SD or E	SD or E
Docks						
Single-family residential dock	X	X	X	X	X	X
New dock essential to the successful operation of a permitted water-dependent use	X	X	X	X	X	X
New dock for public access	X	X	X	X	X	X
Fill						
Waterward of the OHWM for new development	CU	N/A	N/A	N/A	N/A	N/A
Waterward of the OHWM for ecological restoration	CU	N/A	N/A	N/A	N/A	N/A
Landward of the OHWM for new development	N/A	SD	X	SD	SD	SD
As part of shoreline habitat and natural systems enhancement projects	CU	SD	CU	SD	SD	SD

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Permitting Standards Within Shoreline Environment Designations						
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	Disposal of dredge material	X	X	X	X	X
Dredging						
For the primary purpose of obtaining fill material	X	N/A	N/A	N/A	N/A	N/A
For activities associated with shoreline or aquatic restoration or remediation	SD	N/A	N/A	N/A	N/A	N/A
For flood prevention or to protect existing infrastructure	SD	N/A	N/A	N/A	N/A	N/A
Disposal of dredge material	See "Fill" Above					
Shoreline Habitat and Natural Systems Enhancement Projects						
Shoreline habitat and natural systems enhancement projects	SD or E	SD or E	SD or E	SD or E	SD or E	SD or E
Removal of vegetation within riparian habitat area	SD	SD	SD	SD	SD	SD
Boating Facilities						
Marinas	X	X	X	X	X	X
Launch ramps for small non-motorized watercraft	X	SD	X	X	X	X
Launch ramps for motorized watercraft	X	X	X	X	X	X
Forest Practices and Agricultural Uses						
Forest Practices	N/A	X	X	X	X	X
Low intensity agricultural uses	N/A	CU	CU	CU	X	CU
Commercial Development						
Water-dependent commercial uses	CU	CU	X	SD	X	X
Water-related commercial uses	CU	CU	X	SD	X	X
Non-water oriented commercial uses	X	X	X	SD	X	X

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Permitting Standards Within Shoreline Environment Designations						
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	Aquatic	High Intensity	Natural	Shoreline Commercial	Shoreline Residential	Urban Conservancy
Industrial Development						
Water-dependent industrial uses	CU	CU	X	X	X	X
Water-related industrial uses	CU	CU	X	X	X	X
Non-water oriented industrial uses	X	X	X	X	X	X
Non-Residential						
Water-dependent non-residential uses	SD	X	X	SD	SD	SD
Water-related non-residential uses	SD	X	X	SD	SD	SD
Non-water oriented non-residential uses	N/A	X	X	SD	SD	SD
Mining						
Mining	X	X	X	X	X	X
Recreational Development						
Water-dependent recreation	SD	SD	SD	SD	SD	SD
Water-related recreation	CU	SD	SD	SD	SD	SD
Water-enjoyment recreation	CU	SD	SD	SD	SD	SD
Non-water oriented recreation	X	CU	CU	CU	CU	CU
Residential Development						
Single-family or group home residences	N/A	CU	CU	SD or E	SD or E	SD or E
Two-family residences	N/A	CU	X	CU	CU	CU
Multi-family residences (3 or more dwelling units)	N/A	N/A	X	CU	CU	CU
Accessory dwelling units	N/A	X	X	X	SD	SD
Detached accessory structures	N/A	X	X	SD	SD	SD
Subdivisions						
All subdivisions including binding site plans	N/A	SD or E	X	SD or E	SD or E	SD or E

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Permitting Standards Within Shoreline Environment Designations						
Shoreline Permit Type Required SD: Substantial Development Permit CU: Conditional Use Permit X: Prohibited and not eligible for Variance or Conditional Use permit N/A: Not Applicable E: Written Statement of Exemption Need for Variance is determined by type and extent of non-compliance with SMC	Aquatic	High Intensity	Natural	Shoreline Commercial	Shoreline Residential	Urban Conservancy
Signs						
On premise business signs	N/A	E <sup>(1)</sup>	X	E <sup>(1)</sup>	E <sup>(1)</sup>	E <sup>(1)</sup>
On and off premise public information signs serving parks, community, public access identification, temporary events, directional purposes and warning signs	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>	SD <sup>(1), (2)</sup> or E <sup>(1), (2)</sup>
Parking						
Commercial parking or parking facility as primary use	N/A	X	X	CU	X	X
Parking, accessory to a permitted use	N/A	SD	X	SD	SD	SD
Transportation						
New arterial streets	N/A	X	X	X	X	X
New public streets or public street expansions	CU	SD	CU	SD	SD	SD
Pedestrian and bicycle linkages to existing or planned transportation networks, includes pedestrian bridges	CU	SD	CU	SD	SD	SD
Temporary access roads accessory to a permitted shoreline use	N/A	SD	SD	SD	SD	SD
New rail lines	N/A	CU	X	CU	X	X
Expansion of existing rail lines	N/A	X	X	CU	X	X

*Footnotes:*

<sup>(1)</sup> Size and location conform to other local development regulations.

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<sup>(2)</sup> Allowed in the riparian habitat area.

**15-06.060. Shoreline stabilization (armoring).**

A. *General regulations.*

1. All new development, uses, or activities within the riparian habitat area shall be located and designed to prevent or minimize the need for bank stabilization and flood protection works.
2. Unless proponents are using biotechnical techniques, shoreline stabilization proposals shall require a geotechnical analysis to demonstrate the necessity of the project.
3. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201(2)(e).
4. New nonwater-dependent development, including single-family residences, that includes structural shoreline stabilization shall not be allowed unless all of the conditions below apply, otherwise new stabilization measures are limited to protecting only existing developments:
  - a. The need to protect the development from destruction due to erosion caused by natural processes, such as currents and waves, is demonstrated through a geotechnical/hydrogeological report prepared by a qualified professional licensed in the State of Washington.
  - b. The erosion is not caused by upland conditions, such as the loss of vegetation and/or drainage issues.
  - c. There will be no net loss of shoreline ecological functions or impacts to adjacent or down-current properties.
  - d. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements and soft structural solutions such as bioengineering, are not feasible or not sufficient.
  - e. The structure will not cause impacts to the functions and values of critical areas or properly functioning conditions for proposed, threatened, and endangered species.
  - f. Other mitigation/restoration measures are included in the proposal.
5. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with appropriate vegetation. All losses in vegetation or wildlife habitat shall be mitigated at a ratio of one square foot of habitat lost to one square foot of habitat replaced.
6. Shoreline stabilization and flood protection works are prohibited in wetlands.
7. Developments shall not reduce the volume and storage capacity of streams and adjacent wetlands or floodplains.
8. Use of refuse for the stabilization of shorelines is prohibited.
9. Treated wood shall not be used for landscaping within the riparian habitat area.

B. *Bulkheads.*

1. New bulkheads may be allowed only when evidence is presented that demonstrates that one of the following conditions exists:
  - a. Serious erosion threatens an established use or existing primary structure on upland property.

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- b. Bulkheads are necessary to the operation and location of water-dependent, water-related, or water-enjoyment activities consistent with this SMP, provided that all other alternative methods of shore protection have proven infeasible.
    - c. A bulkhead is necessary to retain landfilling that has been approved consistent with the provisions of this SMP.
2. Proposals for bulkheads must first demonstrate through a geotechnical analysis that use of natural materials and processes and non-structural or soft structural solutions to bank stabilization are not feasible.
3. The construction of a bulkhead for the primary purpose of retaining landfilling shall be allowed only in conjunction with:
  - a. A water-dependent use;
  - b. A bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or
  - c. A wildlife or fish enhancement project.
4. Bulkheads shall not be located on shorelines where valuable geo-hydraulic or biological processes are sensitive to interference. Examples of such areas include wetlands and accretion landforms.
5. Bulkheads are to be permitted only where local physical conditions, such as foundation bearing materials, and surface and subsurface drainage, are suitable for such alterations.
6. If possible, bulkheads shall be located landward of the OHWM and generally parallel to the natural shoreline. In addition, the following conditions shall apply.
7. Where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the eroding bank as possible and in no case shall it be more than three feet from the toe of the bank:
  - a. A bulkhead for permitted landfilling shall be located at the toe of the fill.
  - b. Where permitted, a bulkhead must tie in flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the base flood elevation, the requirements set forth in this section shall apply.
8. Replacement bulkheads may be located immediately waterward of the bulkhead to be replaced such that the two bulkheads will share a common surface, except where the existing bulkhead has not been backfilled or has been abandoned and is in serious disrepair. In such cases, the replacement bulkhead shall not reach waterward of the OHWM or existing structure unless there is an overriding safety or environmental concern.
9. All bulkhead proposals require a geotechnical report prepared by a qualified professional licensed in the State of Washington. Bulkheads shall be sited and designed as recommended in approved geotechnical reports.
10. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into the bulkhead design.
11. Bulkheads shall be designed for the minimum dimensions necessary to adequately protect the development.
12. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of the bulkhead, unless they are retractable or removable.

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13. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.
  14. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
  15. Materials used in bulkhead construction shall meet the following standards:
    - a. Bulkheads shall utilize stable, non-erodible, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.
    - b. Dredge spoils shall not be used for fill behind bulkheads, except clean dredge spoil from a permitted off-site dredge and fill operation.
    - c. Backfill to stabilize bulkheads is permitted.
  16. Removal of a bulkhead is encouraged and requires a substantial development permit, unless exempted under WAC 173-27-040.
- C. *Revetment.*
1. The proposed revetment shall be designed by a qualified professional engineer.
  2. Design of revetments shall include and provide improved access to public shorelines whenever possible.
  3. When permitted, the location and design of revetments shall be determined using engineering principles, including guidelines of the United States Soil Conservation Service and the USACE.
  4. Armored revetment design shall meet the following design criteria:
    - a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system.
    - b. Filter fabric must be used to aid drainage and help prevent settling.
    - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from scouring or wave action.
    - d. Fish habitat components, such as large boulders, logs, and stumps, shall be considered in the design subject to a hydraulic project approval by the WDFW.
- D. *Land disturbing activity.*
1. All land disturbing activities shall only be allowed in association with a permitted shoreline development.
  2. All land disturbing activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Clearing invasive, non-native, shoreline vegetation listed on the Columbia County/WSU Extension Office Noxious Weed List is permitted in the riparian habitat area, with an approved permit, provided BMPs are used as recommended by a qualified professional, and native vegetation is promptly reestablished in the disturbed area.
  3. Tree and vegetation removal shall be discouraged in the riparian habitat area, except as necessary to restore, mitigate, or enhance the native vegetation by approved permit as required in these areas or as part of normal utility corridor maintenance or levee maintenance.
  4. Stabilization of exposed surfaces subject to erosion along shorelines shall, whenever feasible, utilize soil bioengineering techniques.

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5. For extensive land disturbing activities that require a permit, a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of shoreline protection shall be required.

**15-06.070. Fill.**

- A. Landfilling activities shall only be permitted in conjunction with a specific development.
- B. Landfilling may be permitted as a conditional use for any of the following:
  1. In conjunction with a water-dependent use permitted under this SMP.
  2. In conjunction with a bridge, utility, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.
  3. Where it will not result in significant damage to water quality, fish, and/or wildlife habitat.
  4. Where it will not adversely alter natural drainage and current patterns or significantly reduce floodwater capacities.
  5. As part of a shoreline enhancement project in the AE.
- C. Landfilling may be permitted with a substantial development permit for any of the following:
  1. As part of an approved shoreline restoration project in the HIE, SCE, SRE and UCE.
  2. For fisheries, aquaculture, or wildlife habitat enhancement projects.
- D. Where landfilling activities are permitted, the landfilling shall be the minimum necessary to accommodate the proposed use and all fill shall be placed landward of the OWHM.
- E. Landfilling, as a result of dredging and dredge material disposal, shall be done in a manner which avoids or minimizes significant ecological impacts. Impacts that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions. Dredge spoil shall not be deposited within the shoreline management area.
- F. Landfilling shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Landfilling perimeters shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms to prevent material movement. In addition, the sides of the landfilling shall be appropriately sloped to prevent erosion and sedimentation, during both the landfilling activities and afterwards.
- G. Fill materials shall be clean sand, gravel, soil, rock, or similar material. Use of polluted dredge spoils and sanitary landfilling materials are prohibited. The property owner shall provide evidence that the material has been obtained from a clean source prior to fill placement.
- H. Landfilling shall be designed to allow surface water penetration into aquifers.

**15-06.080. Dredging and dredge material disposal.**

- A. Dredging and dredge spoil disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  1. Result in significant damage to water quality, fish, and other essential biological elements;
  2. Adversely alter natural drainage and circulation patterns, currents, or reduce floodwater capacities;
  3. Adversely impact properly functioning conditions for proposed, threatened, or endangered species; or

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4. Adversely alter functions and values of the shoreline and associated critical areas.
- B. Proposals for dredging and dredge spoil disposal shall include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials or toxic substances; depletion of oxygen; disruption of food chains; and disturbance of fish habitat and/or important localized biological communities.
- C. Dredging and dredge spoil disposal shall not occur in wetlands unless for permitted maintenance or enhancement.
- D. Dredging within the shoreline management area shall require a substantial development permit.
- E. Dredging within the shoreline management area shall be permitted only:
  1. Within the AE;
  2. For activities associated with shoreline or aquatic restoration or remediation; and
  3. For activities associated with removal of runoff debris.
- F. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
- G. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging.
- H. Dredge material disposal shall be permitted in the shoreline management area only as part of an approved shoreline habitat and natural systems enhancement or fish habitat enhancement or watershed restoration project.
- I. Dredged spoil material may be disposed at approved upland sites.
- J. Dredge spoil shall not be deposited within the shoreline management area.
- K. Disposal of dredge material shall be done in accordance with the Washington State Department of Natural Resources Dredge Material Management Plan. The Washington State Department of Natural Resources manages disposal sites through a site use authorization (SUA); all other required permits must be provided to the Washington State Department of Natural Resources prior to them issuing a SUA for dredge disposal.
- L. The city may impose reasonable limitations on dredge spoil disposal operating periods and hours and may require buffer strips at land disposal sites.
- M. Dredging waterward of the OHWM for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of shoreline ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the OHWM.
- N. Dredging waterward of the OHWM for the purpose of removing runoff debris from bridge abutments is allowed. Material removed shall not be deposited within the riparian habitat area except when the material is necessary for the restoration of shoreline ecological functions.

**15-06.090. Vegetation management.**

- A. The following activity is allowed without a permit, a written statement of exemption, and/or vegetation management plan:
  1. *Existing landscaping.* Maintenance of existing landscaping (including paths and trails) or gardens within the shoreline management area, including a regulated critical area or its buffer. Examples include mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of

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noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas.

2. *Hand removal of noxious and invasive weeds.* If uncertain, consult an expert for proper identification of noxious and invasive species before removing any vegetation.

- B. The following activity is allowed with a written statement of exemption and approved vegetation management plan:

*View corridors.* The development or maintenance of view corridors can provide the general public and property owners of single-family residences opportunities for visual access to water bodies associated with shoreline parcels. One view corridor may be permitted per parcel within the SRE when consistent with the provisions of this title. A mitigation and management plan must be submitted for review and approval, either with a complete building permit application for a new single-family residence or associated with an existing single-family residence.

- C. The following activities are allowed with a written statement of exemption or permit and approved vegetation management plan:

1. View corridor requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted where there are no likely detrimental effects to existing or future users, views from public lands, critical areas, other features or shoreline ecological functions and/or processes, and where reasonable alternatives of equal or greater consistency with this plan are not available. Conditions may be attached to the permit or letter of exemption by the hearings examiner or by the department to minimize the effects of the proposed use.
2. Removal of trees and shrubs within a buffer is subject to provisions of DMC 15-06.090(E).
3. Excavation, filling, and construction of new landscaping features is subject to the provisions of DMC Title 15.

- D. *Vegetation management application and plans.*

1. An applicant must submit the following materials:
  - a. *Application.* A signed application form by the property owner of the shoreline proposed for vegetation alterations.
  - b. *Plan map.* A scaled mitigation and management plan map that demonstrates a side, top, and bottom parameter for the proposal with existing vegetation and proposed alterations.
  - c. A graphic and/or site photos for the entire shoreline frontage that demonstrates that the parcel and proposed or existing home does or will not when constructed have a view corridor of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.
  - d. Mitigation actions that will be taken to balance the required activity.
  - e. Monitoring actions that will measure whether the mitigation actions are successful over time.
  - f. Monitoring and reporting schedule.
  - g. Responsible party for the monitoring and reporting.
2. Applications for view corridors must also be consistent with the following standards:
  - a. Removal of native vegetation shall be prohibited unless similar native vegetation is planted elsewhere on the property.

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- b. Pruning of native vegetation shall not exceed 30 percent of a tree's limbs. No tree topping shall occur. Pruning of vegetation waterward of the OHWM is prohibited. The view corridor shall be limited to 25 percent of the width of the lot, or 25 feet, whichever distance is less.
  - c. Non-native vegetation within a view corridor may be removed when the mitigation and management plan can demonstrate a net gain in site functions and where impacts are mitigated at a ratio of one square foot of vegetation removed to vegetation replaced.
  - d. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.
  - e. Pruning shall be done in a manner that shall ensure the continued survival of vegetation.
  - f. The applicant shall clearly establish that fragmentation of fish and wildlife habitat will not occur and that there is not a net loss of site ecological functions.
  - g. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs. Limitations and guidelines for this maintenance shall be established in the mitigation and management plan by the applicant, to be reviewed and approved by the Shoreline Administrator.
  - h. A hardened path within the view corridor, no wider than four feet, consisting of materials like pavers, rocks, untreated wood, etc. is allowed for each parcel as a path to the shoreline. Pervious materials are preferred over impervious materials.
- E. *Tree retention.* To maintain the ecological functions that trees provide to the shoreline environment, trees with trunk diameters greater than six inches shall be managed as follows:
- 1. Within the riparian habitat area, trees with trunk diameters greater than six inches shall not be removed or topped for the purpose of creating views. Prohibited tree removal activities include direct or indirect actions, including, but not limited to:
    - a. Clearing, damaging, or poisoning resulting in an unhealthy or dead tree;
    - b. Pruning to half or more of the live crown; or
    - c. Damage to roots or trunk that is likely to destroy the tree's structural integrity.
  - 2. Within the riparian habitat area, native trees and shrubs shall be retained to the maximum extent possible, except where said tree or shrub is diseased or hazardous as determined by a qualified professional or where required by the USACE for levee maintenance.
  - 3. If removal of a non-hazard tree or shrub not associated with levee maintenance is approved in the riparian habitat area, it must be replaced at a two to one replacement ratio. The required minimum size of the replacement of tree(s) with a trunk diameter greater than six inches in diameter shall be five feet tall for a conifer and one and three-quarters-inch caliper for deciduous or broad-leaf evergreen tree.
  - 4. For required replacement trees, a planting plan showing location, size, and species of the new trees is required. All replacement trees in the riparian habitat area must be native species. Replacement trees may be planted off-site in approved restoration areas if replacement at or near the tree removal area is impractical.
- F. *Tree pruning and removal within the riparian habitat area .*
- 1. Selective pruning of trees for safety is allowed if the trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional. They may be removed if the

hazard cannot be removed by topping or other techniques that maintain some habitat function. Stumps should be retained in the ground to provide soil stabilization unless another soil stabilization technique is utilized immediately after stump removal.

2. All other tree removal in the shoreline management area landward of the riparian habitat area proposed as part of an approved use or development shall be minimized through site design and mitigated.
3. Tree replacement shall occur at a two to one ratio, with native or non-native trees replaced with a native tree.

**G** *Vegetation maintenance within existing right-of-way corridors.*

1. Vegetation management is allowed where it is part of a regular, ongoing maintenance program, that:
  - a. Does not expand further into the shoreline management area or critical area;
  - b. Does not result in an expansion of the utility corridor; and
  - c. Does not directly impact endangered species.
2. Maintenance activities must use BMPs and shall, whenever possible, be confined to late summer and fall to minimize erosion concerns and disruption of native nesting birds.
3. Hand removal of noxious and invasive weeds is allowed without a permit. If uncertain, consult an expert for proper identification of noxious and invasive species before removing any vegetation.

**15-06.100. Boating facilities.**

- A. Facilities in support of motorized boats are not permitted. This includes boat launch ramps, dry boat storage, and marinas.
- B. Facilities supporting limited trails access points for launching and take-out of non-motorized watercraft are allowed, provided that both the launch and take-out location(s) are accessible to the public. Take-out locations must be clearly identified from the water.

**15-06.110. Forest practices.**

Forest practices are prohibited in all shoreline environments.

**15-06.120. Industrial development.**

- A. Over-water construction of industrial uses is prohibited, with the exception of those existing facilities necessary for the operation of an associated industrial use. For example, an allowed facility may include pump houses for fire protection.
- B. All industrial loading and service areas shall be located on the upland side of the industrial activity. Where necessary, paved access roads, constructed to collect stormwater and not within the riparian habitat area , may be used shoreward of industrial activity.
- C. All industrial development within the shoreline management area shall assure no net loss of shoreline ecological functions.
- D. A shoreline setback is not required to be maintained for water-dependent industrial development.
- E. Water-related, industrial development shall maintain a shoreline setback equal to the riparian habitat area . If public access is provided to the shoreline, the setback may be reduced to 25 feet from the OHWM. Where

on-site public access is provided, industrial development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of 25 feet in width and shall comply with the public access standards contained in the public access sections of the SMP and shoreline code.

- F. Nonwater-related industrial development shall maintain a minimum setback from the OHWM consistent with the area set forth in DMC 15-06.060.

**15-06.130. Mining.**

Mining is prohibited in all shoreline environments.

**15-06.140. Recreational development.**

- A. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, shall be used only for permitted low impact and nonstructural recreation activities.
- B. For recreation developments that require the use of fertilizers, pesticides, or other chemicals, the property owner shall submit plans demonstrating the methods to be used that prevent these chemical applications and resultant leachate from entering adjacent water bodies. The property owner shall be required to maintain a chemical-free swath equal to the riparian habitat area for their shoreline environment designation, adjacent to water bodies.
- C. No recreational buildings or structures shall be built waterward of the OHWM, except water-dependent and/or water-enjoyment structures such as bridges and viewing platforms. Such uses may be permitted as a conditional use.
- D. Proposals for recreational development shall include adequate facilities for water supply, sewage, and garbage disposal.

**15-06.150. Residential development.**

- A. Residential development is prohibited waterward of the OHWM.
- C. Residential development shall assure no net loss of shoreline ecological functions.
- D. Residential development shall not be approved if geotechnical analysis demonstrates that additional flood control or shoreline protection measures are necessary to create a residential lot or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works.
- E. If wetlands or other critical areas are located on the development site, clustering of residential units shall be required in order to avoid impacts to these areas.
- F. Storm drainage facilities shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff.
- G. Subdivisions and planned unit developments of five or more than four waterfront lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access, sufficient utilities and public services to serve existing and planned future needs along the shoreline.
- H. When required, public access easements shall be a minimum of 20 feet in width and shall comply with the public access standards in DMC 15-05.040.

**15-06.160. Signs.**

- A. Signs within the shoreline management area are subject to the requirements and standards specified in DMC 15.06.050 in addition to the following sign requirements:
1. Signs shall only be allowed in or over water for navigation purposes and at road or railroad crossings as necessary for operation, safety, and direction.
  2. Business signs shall only be allowed outside of the riparian habitat area unless related and necessary to a water-dependent use on which it is placed.
  3. Off-site commercial signs for products, services, or facilities are prohibited.
  4. Signs are subject to the zoning code regulations of DMC title 11 and regulations specified in the sign code, DMC title 12.
  5. Signs placed on trees or other natural features are prohibited, unless the Shoreline Administrator finds that these signs are necessary for public safety reasons.

**15-06.170. Parking.**

- A. Parking for specific land use activities within the city is subject to the requirements and standards set forth in DMC title 11. In addition, the following parking requirements shall apply to all developments within shoreline management areas:
1. The location of parking areas and lots shall be located outside of the riparian habitat area .
  2. Parking in the shoreline management area must directly serve an approved shoreline use.
  3. Parking shall be located on the landward side of the development unless parking is contained within a permitted structure. Where there is no available land area on the landward side of the development, parking shall extend no closer to the shoreline than a permitted structure.
  4. Landscape screening is required between the parking area and all adjacent shorelines and properties.
  5. The landscape screening for parking lots located within the shoreline management area shall consist of vegetation that provides adequate screening within three years after planting. Adequate screening or landscaping for parking lots shall consist of one or more of the following:
    - a. A strip five feet wide landscaped with trees, shrubs, and/or groundcover creating a filtered screen from the ground to a minimum of six feet in height;
    - b. A building or enclosed structure;
    - c. A strip of land not less than two feet in width that is occupied by a continuous wall or fence creating a filtered screen from the ground to a minimum of six feet in height.
  6. The requirement for screening may be waived by the Shoreline Administrator, where screening would obstruct a significant view from public property or creates a sight distance obstruction for vehicles on a street.
  7. Parking areas shall not be permitted over the water.
  8. Parking as a primary use shall be prohibited within all shoreline management areas.

9. Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in all shoreline management areas.

**15-06.180. Transportation.**

- A. Transportation facilities and services shall utilize existing transportation corridors wherever possible, provided the shoreline is not adversely impacted and the development is otherwise consistent with this SMP.
- B. Transportation and primary utilities shall jointly use rights-of-way.
- C. Landfilling activities for transportation facility development are prohibited in water bodies, wetlands, and on accretion beaches, except when all structural and upland alternatives have proven infeasible, and the transportation facilities are necessary to support uses consistent with this SMP.
- D. Major new roads and railways shall avoid being located in the shoreline management area to the extent practical. These roads shall cross shoreline areas by the shortest, most direct route, unless this route would cause more damage to the environment.
- E. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline modification.
- F. All bridges must be built high enough to allow the passage of debris and provide a minimum of three feet of clearance above the base flood elevation.
- G. Shoreline transportation facilities shall be located and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.
- H. Bridge abutments and necessary approach fills shall be located landward of the OHWM. Bridge piers in a water body should be avoided where possible and may be permitted only as a conditional use.

**15-06.190. Railroads and rail corridors.**

See DMC 15-06.180, Transportation.

**15-06.200. Nonresidential development.**

- A. Over-water construction of nonresidential uses is prohibited in all environment designations.
- B. All nonresidential development within the shoreline management area shall provide for visual and/or physical access to the shoreline by the public. Where on-site public access is feasible, nonresidential development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of 20 feet in width and shall comply with the public access standards contained in the public access section of this SMP.
- C. All nonresidential loading and service areas shall be located on the upland side of the nonresidential activity or provisions shall screen the loading and service areas from the shoreline.
- D. All nonresidential development within the shoreline management area shall assure no net loss of shoreline ecological functions.
- E. A shoreline setback is not required for water-dependent nonresidential development.
- F. Nonwater-related nonresidential development shall maintain a minimum setback from the OHWM consistent with the area set forth in DMC 15-06.060.

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### **15-06.210. Utilities.**

- A. Utility development shall provide for compatible, multiple uses of sites and rights-of-way when practical.
- B. Utility development within the NE designation shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
- C. The following primary utilities, which are not essentially water-dependent, may be permitted as a conditional use if it can be shown that no reasonable alternative exists:
  - 1. Water system treatment plants.
  - 2. Sewage system lines, interceptors, pump stations, and treatment plants.
  - 3. Electrical energy generating plants, substations, lines, and cables.
- D. New solid waste disposal sites and facilities are prohibited.
- E. For new utility distribution lines of less than 55,000 volts, communications, and fuel lines, in areas where no current utility corridors exist, or the substantial expansion of existing utility corridor rights-of-way, undergrounding is preferred. Existing utility corridors within the shoreline management area can be used for upgrades to facilities, if the right-of-way corridors are not altered. Utility providers shall consider all factors when proposing to install underground or overhead utilities.
- F. Transmission and distribution facilities shall cross the shoreline management area by the shortest most direct route feasible, unless such route would cause increased environmental damage.
- G. Utilities shall be located and designated so as to avoid the use of any structural or artificial shoreline modification.
- H. All underwater pipelines are discouraged. If no other alternative exists, a conditional use permit is required.