CHAPTER ELEVEN
SHORELINE MASTER PROGRAM

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11.0 PURPOSE AND RESPONSIBILITY

Washington’s Shoreline Management Act, Chapter 90.58 RCW (SMA), was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA is, “…to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” The overarching SMA policy is to manage shorelines of the state by planning for and supporting reasonable and appropriate uses while protecting against adverse impacts to public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

The primary responsibility for administering the SMA is assigned to local governments through the mechanism of Shoreline Master Programs (SMP), adopted under guidelines established by the Washington State Department of Ecology (“Ecology”). The Ecology guidelines (WAC 173-26) establish goals, policies, and standards. Local SMPs contain goals and policies, maps, regulations and development standards, and permitting procedures consistent with the SMA and Ecology guidelines. The SMP is required to protect shorelines as a statewide resource while also being tailored to the specific conditions and needs of individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be used and developed over time.

According to Substitute Senate Bill (SSB) 6012, passed by the 2003 Washington State Legislature, cities within King County are required to amend their local SMPs consistent with Ecology’s revised guidelines. The required update process also provides cities with an opportunity to incorporate the changes in the physical shoreline conditions (including annexations) and integrate current technical and scientific information into the SMP.
At the time of incorporation in 1990, the City of Federal Way (“City”) adopted King County’s Shoreline Master Program (SMP). The City developed and adopted its own SMP in 1998 that integrated the SMP into the Federal Way Comprehensive Plan (FWCP). In 1999, the City adopted associated development regulations for the shoreline. As of January 2005, newly annexed areas included the eastern shore of North Lake and the northwestern shore of Lake Killarney. All of the lakes within the City’s potential annexation area (PAA) are governed by county shoreline regulations.

The goals and policies contained in the SMP are incorporated into the FWCP within this Shoreline Master Program chapter. Development regulations contained in the SMP are incorporated in the Federal Way Revised Code (FWRC) Title 15, Shoreline Management.

### 11.1 SHORELINE JURISDICTION

Under the SMA, the shoreline jurisdiction includes waters that have been designated as “shorelines of statewide significance” or “shorelines of the state” and adjacent lands or “shorelands.” Shoreline jurisdiction includes all the designated water bodies and the land underlying them, plus their associated shorelands, which includes land extending landward for two hundred feet in all directions from the ordinary high water mark (OHWM), floodways, and contiguous floodplain areas landward 200 from those floodways, and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA.

These designations were established in 1972, and are described in the SMA (RCW 90.58.030[2]). Generally, “shorelines of statewide significance” include portions of Puget Sound and other marine waterbodies; rivers west of the Cascade Range that have a mean annual flow of 1,000 cubic feet per second (cfs) or greater; rivers east of the Cascade Range that have a mean annual flow of 200 cfs or greater; and freshwater lakes with a surface area of 1,000 acres or more. “Shorelines of the state” are generally described as all marine shorelines and shorelines of all other streams or rivers having a mean annual flow of 20 cfs or greater and lakes with a surface area greater than 20 acres.

The shoreline jurisdiction within the city limits of the City of Federal Way encompasses approximately 16.9 miles of shoreline. It includes all of the Puget Sound shoreline in Federal Way (about 4.8 miles), including areas waterward of the OHWM which extend to the line of extreme low tide. Approximately 12.1 miles of shoreline are found along freshwater lakes. The lakes currently within the city limits are:

- Steel Lake
- The northwestern shore of Lake Killarney
- North Lake

There are no rivers or streams meeting the definition of “shorelines of the state” within the City or its annexation area. However, streams such as Joe’s Creek and Lakota Creek discharge to the Puget Sound shoreline. The mouths of these streams and the upstream extent of tidal influence are considered under shoreline jurisdiction because of their association with the Puget Sound shoreline. Five freshwater lake shorelines are located in the City’s PAA and are included in this master program update; these include Star Lake, Lake Dolloff, Lake Geneva, the remaining portion of Lake Killarney, and Five Mile Lake.
The portions of Puget Sound within the city limits waterward of the line of extreme low tide are defined as “shorelines of statewide significance” (RCW 90.58.030). Under the SMA, the shoreline area to be regulated under the City’s SMP must include marine waters, lakes, and shorelands, defined as the upland area within 200 feet of the OHWM, as well as any associated wetlands (RCW 90.58.030). The shoreline jurisdiction of the City of Federal Way is shown in Map XI-1 (maps are at the end of the chapter).

11.2 COMPLIANCE IN FEDERAL WAY

The SMA establishes a cooperative program of shoreline management between local government and the state. The state’s primary role is to support local government and provide assistance, as well as reviewing some shoreline permits and reviewing and approving amendments to local SMPs. The SMA requires three primary tasks to be fulfilled by local governments:

1. Compilation of a comprehensive inventory that includes a survey of natural characteristics, present land uses, and patterns of property ownership;
2. Development of a master program to provide an objective guide for regulating the use of shorelines, consistent with the SMA (RCW 90.58) and its provisions, including the SMP guidelines (Chapter 173-26 WAC) and shoreline permitting and enforcement procedures (Chapter 173-27 WAC); and
3. Administration of a shoreline permit system for proposed substantial development and regulated uses in designated water bodies and on their associated shorelands.

In compliance with the first requirement of the SMA, the City completed a comprehensive inventory of natural characteristics, functions and values of resources, existing land use, and ownership patterns along the City’s shorelines (Section 2 of the Shoreline Master Program – Shoreline Inventory). This inventory was completed in August 2006 and finalized in June 2007.

The second requirement of the SMA was met by the City with the help of local citizens and stakeholders, who assisted in developing goals and policies, which form the foundation for the SMP.

11.3 PUBLIC INVOLVEMENT

To conduct the SMP update, City staff and ESA Adolfson prepared draft components of the City’s SMP, worked with a Citizen’s Advisory Committee (CAC), sought review from a Technical Advisory Committee (TAC), and presented findings to the Planning Commission and the City Council Land Use/Transportation Committee (LUTC). At the start of the project in February 2006, a Public Participation Plan was developed and used as a guide during the SMP update. A public Open House was held on June 7, 2006, to introduce the process to the public and shoreline residents. The Open House was
advertised with direct mailings to all shoreline owners as well as public notices on the City’s website. Six meetings were held with the CAC between July and December 2006. Citizen comment was integrated into the shoreline inventory, shoreline environment designations, and goals & policies section of the SMP. Technical documents were routed to the TAC, including Ecology staff, for review and comment. Other agencies involved in the process included Washington Department of Fish and Wildlife, Washington Department of Natural Resources, King County, neighboring cities, and the Tribes.

Three meetings were held with the Planning Commission to present findings and discuss recommendations. The Planning Commission meetings were held on February 14, March 28, and April 4, 2007. A public hearing was held during the April 4, 2007 meeting. Approximately 20 citizens testified either at the public hearing or during public testimony during the March 28th Planning Commission meeting. Additional public comment was taken and response given during the LUTC meeting on May 21, 2007. The City Council passed the SMP by resolution on June 5, 2007.

In July of 2007, the Council-approved SMP was submitted to Ecology for review and comment. The City of Federal Way received official Ecology review comments in January 2009. City staff, ESA Adolfson, and Ecology staff worked collaboratively to prepare draft revisions to the SMP that responded to the official Ecology comments. Former members of the SMP CAC, TAC, shoreline property owners, public agencies, and other parties of interest were notified of the availability of the revised SMP documents. On August 4, 2010, a public information meeting was conducted to discuss the revisions to the SMP. On August 25, 2010, the Planning Commission conducted a public hearing on the proposed revisions to the SMP and forwarded a recommendation to approve the proposed revisions. The LUTC considered the revisions on October 5, 2010, and forwarded a recommendation to approve the proposed revisions with a few minor modifications. The City Council passed the revised SMP by resolution on October 19, 2010.

A programmatic environmental checklist was prepared for the SMP Update. Pursuant to the State Environmental Policy Act (SEPA), the City’s SEPA Official issued a Determination of Nonsignificance (DNS) on March 31, 2007. The public comment period was open on the DNS for approximately 30 days. The appeal period expired on April 28, 2007.

11.4 RELATIONSHIP TO CITY CODE

The set of shoreline goals and policies in this chapter provide the foundation and framework on which the balance of the master program has been based. The policies contained herein are enforced through FWRC Title 15, “Shoreline Management,” and any other applicable sections of the FWRC. Article II of FWRC Chapter 15.05 includes all of the shoreline regulations that enforce the goals and policies of the SMP. The following is a list of the primary subsections of Chapter 15.05, Article II. These sections are listed here to illustrate how the SMP goals and policies are linked to the regulatory document.
FWRC Chapter 15.05 (Shoreline Management), Article II (Shoreline Regulation):

- **15.05.040 – General development standards.** Provides standards consistent with the Conservation and Restoration, Historic and Cultural Resources, and Public Access and Recreation elements of this Chapter. This section of Article II adopts Critical Areas and Flood Damage Reduction regulations (as Chapter 15.10 and Chapter 15.15 of Title 15).

- **15.05.050 – Shoreline modifications.** Provides standards specific to shoreline modifications consistent with the Shoreline Use and Conservation and Restoration elements of this Chapter.

- **15.05.060 – Environment designations.** Introduces the system of environment designations, consistent with the Shoreline Environments section of this Chapter.

- **15.05.070 – Summary of Uses, Approval Criteria and Process.** Provides a graphical summary of the use and development regulations detailed in other sections of Article II.

- **15.05.080 – Shoreline residential environment.** Provides regulations specific to the shoreline residential environment, consistent with the goals and policies for the shoreline residential environment within this Chapter.

- **15.05.090 – Urban conservancy environment.** Provides regulations specific to the urban conservancy environment, consistent with the goals and policies for the urban conservancy environment within this Chapter.

- **15.05.100 – Natural environment.** Provides regulations specific to the natural environment, consistent with the goals and policies for the natural environment within this Chapter.

### 11.5 SHORELINE USE ELEMENT

This element addresses the distribution, location, and extent of use of shorelines and adjacent areas for housing, recreation, transportation, office, public buildings, utilities, education, and other uses. The shorelines in Federal Way are more widely used for residential purposes than for any other use. Much of the undeveloped shoreline is privately owned, subdivided into small lots, and zoned to permit residential development.

**Goal**

**SMPG1** Shoreline areas shall permit a variety of development types in accordance with the FWRC, FWCP, and Shoreline Master Plan designations. Designs, densities, and locations for all allowed uses and developments should consider physical and natural features of the shoreline and prevent a net loss of shoreline ecological functions.

**Policies**

**SMPP1** Shoreline land and water areas particularly suited for specific and appropriate uses should be designated and reserved for such uses.

**SMPP2** Shoreline land and water uses should satisfy the economic, social, and physical needs of the regional population, but should not lead to a net loss of ecological functions in the shoreline areas.
SMPP3 Like or compatible shoreline uses should be clustered or distributed in a rational manner, rather than allowed to develop haphazardly.

SMPP4 Multiple uses of shoreline should be encouraged where location and integration of compatible uses or activities are feasible.

SMPP5 Shoreline ecological functions should be protected from uses or activities that will have an adverse effect on them.

SMPP6 Non-residential uses or activities that are not shoreline dependent should be encouraged to locate or relocate away from the shoreline.

SMPP7 Federal Way should consider the goals, objectives, and policies of the SMP in all land use management decisions regarding the use or development of adjacent uplands where such use or development may have an adverse effect on designated shorelines.

SMPP8 Development should be regulated accordingly in shoreline areas known to contain development hazards or which would adversely impact designated critical areas as identified in FWRC Title 15.

   a. All development should be prohibited within the 100-year floodplain, except single-family residential and water-dependent or water-related uses.
   b. All development should be prohibited in shoreline areas of severe or very severe landslide hazard.
   c. All development should be regulated in shoreline areas with slopes of 40 percent or greater.
   d. Shoreline areas containing other potential hazards (e.g., geological conditions, unstable subsurface conditions, erosion hazards, or groundwater or seepage problems) should be regulated as necessary to avoid unsafe development and disturbance of sensitive areas.

SMPP9 Promote respect of private property rights while implementing SMA requirements.
Goal

SMPG2 Residential use of shoreline areas should be continued and encouraged in areas that have not been designated as Natural environments by the SMP, allowing a variety of housing types. New development or redevelopment of residential uses should cause no net loss of shoreline ecological function as identified in the SMP’s Shoreline Inventory Characterization and Analysis.

Policies

SMPP10 Residential developments should be designed to achieve no net loss of shoreline ecological functions and minimize interference with visual and physical access. Unavoidable impacts to the shoreline environment from residential development should be mitigated to assure no net loss of shoreline ecological functions.

a. Residential development in designated critical areas or their associated buffers should be regulated as required by the City’s SMP regulations.
b. Residential development on piers or over water is prohibited.
c. Landfill for residential development that reduces water surface or floodplain capacity shall not be permitted.
d. In residential developments, the water’s edge should be kept free of buildings and fences.
e. Development standards should require the retention of natural shoreline vegetation and other natural features of the landscape to the greatest extent possible during site development and construction.

SMPP11 Residential use of shorelines should not displace or encroach upon areas that have existing or are designated as supporting water-dependent shoreline uses.

SMPP12 Residential densities should be determined with regard for the physical capabilities of the shoreline areas and public services requirements and include the following considerations:

a. Subdivisions and new development should be designed to adequately protect aesthetic characteristics of the water and shoreline environment.
b. New residential development should only be allowed in those shoreline areas where the provision for sewage disposal and drainage ways are of such a standard that adjoining water bodies would not be adversely affected by pollution or siltation.
c. Residential development along shorelines should be setback from the ordinary high water mark far enough to make unnecessary such protective measures as filling, bulk heading, construction groins, or jetties, or substantial re-grading of the site.
d. Residential developments should be designed to enhance the appearance
of the shoreline and not substantially interfere with the views from public property or access to the water.
e. The shoreline ecosystems, processes, and functions identified in the Shoreline Inventory and Characterization should be considered when determining standards for residential development patterns within the shoreline environment.

SMPP13 Residential subdivisions in shoreline areas should provide public pedestrian access to the shorelines within the development in accordance with the public access and recreation element of this master program.

SMPP14 Developers of recreational projects such as summer homes, cabins, campgrounds, and similar facilities should satisfactorily demonstrate:

a. The suitability of the site to accommodate the proposed development without adversely affecting the shoreline environment and water resources.
b. Adequate provisions for all necessary utilities, including refuse disposal.

Goal

SMPP15 Consideration should be made of the effect a structure will have on scenic value, and when feasible, should include opportunities for public access to shoreline areas.

SMPP16 Commercial and office structures and ancillary facilities that are not shoreline dependent or water-oriented should be setback from the water’s edge and designed to avoid adverse impacts to shoreline ecological functions.

SMPP17 The use of porous materials and other low impact development design alternatives should be encouraged for paved areas to allow water to penetrate and percolate into the soil. Use of holding systems should be encouraged to control the runoff rate from parking lots and rooftops.

SMPP18 Commercial and office development located within shoreline areas should be constructed to withstand normal rain and flooding conditions without contributing pollution to the watercourse or shoreline. State and local best management practices should be implemented to protect the natural shoreline environment from impacts associated with stormwater runoff.

SMPP19 Commercial and office development that is not water-dependent should provide a buffer zone of native vegetation for erosion control.

SMPP20 Commercial aquaculture activities should be prohibited.
Goal

**SMPG4** Regional and subregional utility facilities, including communications, (radio, TV, and telephone), energy distribution (petroleum products, natural gas, and electricity), water, sanitary sewers, and storm sewers should not be allowed in shoreline areas unless there is no alternative location. Design, location, construction, and maintenance of utility facilities must comply with the requirements of SMP regulations and other federal, state, and local laws, and result in no net loss of shoreline ecological functions.

Policies

**SMPP21** Utilities that could allow for growth should not be extended into or along shorelines without prior approval of such extension by the appropriate land use authority.

**SMPP22** Utilities located in shoreline environments inappropriate for development should not make service available to those areas.

**SMPP23** In developed shorelines not served by utilities, utility construction should be encouraged to locate where it can be shown that water quality will be maintained or improved.

**SMPP24** Federal Way should be consulted prior to, or at the time of, application for construction of regional utility facilities to be located in or along shorelines.

**SMPP25** Utility corridors crossing shorelines should be encouraged to consolidate and concentrate or share rights-of-way where:

a. Public access or view corridors would be improved.

b. Concentration or sharing would not hinder the ability of the utility systems to be installed, operated, or maintained safely.

c. Water quality would be as good as or better than if separate corridors were present.

**SMPP26** Public access should be encouraged where rights-of-way for regional utility facilities cross shorelines in the City, and where public safety and facility security would not be compromised.

**SMPP27** New utility facilities should be located so as to not require extensive shoreline protection nor to restrict water flow, circulation, or navigation.

**SMPP28** New utility facilities and rights-of-way should be located to preserve the natural landscape and minimize conflicts with present and planned uses of the land on which they are located.

**SMPP29** New utility facilities and rights-of-way should be located and designed to minimize detrimental visual impacts from the water and adjacent uplands.
SMPP30 New freestanding personal wireless service facilities are prohibited from locating within the shoreline environment.

Goal

SMPPG5 Limit shoreline stabilization—which includes any action taken to reduce adverse impacts caused by current, flood, wake, or wave action—including the use of bank stabilization, rip rap, and bulk heading, to that which is necessary to protect existing improvements.

Policies

SMPP31 Shoreline stabilization should be allowed only if it is clearly demonstrated that shoreline protection is necessary to protect existing improvements.

SMPP32 Structural solutions to reduce shoreline erosion should be allowed only after it is demonstrated that nonstructural solutions, such as bioengineering or soft-shore armoring, would not be able to protect existing development.

SMPP33 Planning of shoreline stabilization should encompass sizable stretches of lake or marine shorelines. This planning should consider off-site erosion, accretion, or flood damage that might occur as a result of shoreline protection structures or activities.

SMPP34 Shoreline stabilization on marine and lake shorelines should not be used as a means of creating new or newly developable land.

SMPP35 Shoreline stabilization structures should allow passage of ground and surface waters into the main water body.

SMPP36 Shoreline stabilization should not reduce the volume and storage capacity of streams and adjacent wetlands or flood plains.

SMPP37 Whenever shoreline stabilization is needed, bioengineered alternatives such as natural berms and erosion control vegetation plans should be favored over hard surfaced structural alternatives such as concrete bulkheads and sheet piles.

SMPP38 The burden of proof for the need for shoreline stabilization to protect existing developments or proposed redevelopments rests on the applicant.

SMPP39 Shoreline stabilization activities that may necessitate new or increased shoreline protection on the same or other affected properties where there has been no previous need for protection should not be allowed.

SMPP40 New development shall be designed and located so as not to require shoreline stabilization.

SMPP41 Areas of significance in the spawning, nesting, rearing, or residency of aquatic and terrestrial biota should be given special consideration in review of proposed shoreline stabilization activities.
SMPP42  Shoreline stabilization activities should be discouraged in areas where they would disrupt natural feeder bluffs processes important for maintaining beaches.

Goal

SMPG6  Docks and moorages should be allowed when associated with residential, recreational, or other public facilities. The design, location, and construction of any dock, pier, or moorage should avoid, to the greatest extent possible, adverse effects on shoreline ecological functions.

Policies

SMPP43  Open pile construction should be preferred where there is significant littoral drift, where scenic values will not be impaired, and where minimal alteration to the shoreline and minimal damage to aquatic resources can be assured.

SMPP44  Piers, floats, and docks should be prohibited or permitted as a conditional use where conflicts with recreational boaters and other recreational water activities would create public safety hazards.

SMPP45  Where new docks are allowed, new residential development of two or more dwellings should be required to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

SMPP46  Temporary moorages should be permitted for vessels used in the construction of shoreline facilities. The design and construction of such moorages shall be such that upon termination of the project, aquatic habitat can be returned to original condition within one year at no cost to the environment or the public.

SMPP47  Shoreline structures that are abandoned or structurally unsafe should be removed.
SMPP48 Docks, buoys, and other moorages should only be authorized after consideration of:

a. The effect such structures have on wildlife and aquatic life, water quality, unique and fragile areas, submerged lands, and shoreline vegetation.
b. The effect such structures have on navigation, recreational and commercial boating, shoreline access, and scenic and aesthetic values.
c. The effect such structures have on water circulation, sediment movement, and littoral drift.

SMPP49 Moorage buoys should be preferred over moorage piles on all tidal waters.

11.6 PUBLIC ACCESS AND RECREATION ELEMENT

This element addresses the preservation and expansion of all types of public access and recreational opportunities through programs of acquisition, development, and various means of less-than-fee acquisition.

Goal

SMPG7 Increase public access to and enjoyment of shoreline areas through improvements to physical access on publicly owned lands and improved visual access, provided that private rights, public safety, and shoreline ecological functions remain intact.

Policies

SMPP50 Development of public access should respect and protect private rights that are held on shoreline property.

SMPP51 Public access should be maintained and regulated.

a. Public access should be policed and improved consistent with intensity of use.
b. Provisions to restrict access as to nature, time, number of people, and area may be appropriate for public pedestrian easements and other public access areas where there are spawning grounds, fragile aquatic life habitats, or potential hazards for pedestrian safety.

SMPP52 Design of access should provide for the public health, safety, and enjoyment.

a. Appropriate signs should be used to designate publicly owned shorelines.
b. Pedestrian and non-motorized physical and visual access to the shoreline should be encouraged.
c. Public access to and along the water’s edge should be made available in publicly owned shorelines in a manner that protects shoreline ecological functions.
SMPP53 Acquisition and development of new shoreline public access locations should be consistent with overall parks and open space planning goals and policies.

a. Acquisition and development of shoreline properties should be consistent with criteria and standards as part of an overall park and open space master plan.
b. Where appropriate, utility and transportation rights-of-way on the shoreline should be made available for public access and use, consistent with the shoreline use and circulation element policies.
c. Where appropriate, publicly-owned street ends that abut the shoreline should be retained and/or reclaimed for public access, consistent with the circulation element policies.
d. Shoreline recreational facilities and other public access points should be connected by trails, bicycle pathways, and other access links where possible.

SMPP54 Public access should be provided in new shoreline developments.

a. Incentives should be used to encourage private property owners to provide public shoreline access.
b. Public pedestrian easements should be considered in future land use authorizations, and in the case of projects along lakes, streams, ponds, and marine lands, whenever shoreline features are appropriate for public use. Shorelines of the City characterized by the following should be considered for pedestrian easements:

1. Areas of significant, historical, geological, and/or biological features and landmarks.
2. Areas presently being legally used, or historically having been legally used, by the public along the shoreline for access.
3. Where public funds have been expended on or related to shoreline developments.

**SMPP55** Shorelines in the City should be available to all people for passive use, visual access, and enjoyment.

- The City should preserve and provide publicly accessible viewpoints, lookouts, and vistas of shorelines.
- New developments should minimize visual and physical obstruction of the water from adjacent roads and public properties.

**SMPP56** Physical and/or visual access to the water should use steep slopes, viewpoints from bluffs, stream valleys, and features of special interest where it is possible to place pathways consistent with public safety and without requiring extensive flood or erosion protection.

**Goal**

**SMPG8** *Provide additional shoreline dependent and water oriented recreation opportunities that are diverse, convenient, and adequate for the regional population, and that will not result in a net loss of shoreline ecological functions.*

**Policies**

**SMPP57** Areas containing special shoreline recreation qualities not easily duplicated should be available for public use and enjoyment.

- Opportunities should be provided for the public to understand natural shoreline processes and experience natural resource features.
- Public viewing and interpretation should be encouraged at or near governmental shoreline facilities when consistent with security and public safety.

**SMPP58** Shoreline recreational use and development should enhance environmental quality with minimal adverse effect to natural resources.

- Stretches of relatively inaccessible and unspoiled shoreline should be available and designated as low intensity or passive recreational use areas with minimal development. Service facilities such as footpaths, periphery parking, and adequate sanitary facilities should only be located where appropriate, considering both public safety and preservation of shoreline ecological functions.
- Beaches and other predominantly undeveloped shorelines currently utilized for recreational purposes should be available and designated as medium intensity recreational use areas to be free from expansive development; intensity of use should respect and protect the natural qualities of the area.
- Small or linear portions of the shoreline suitable for recreational purposes should be available and designated as transitional use areas that
allow for variable intensities of use, which may include vista points, pedestrian walkways, water entry points, and access from the water; utilizing stream floodplains, street ends, steep slopes, and shoreline areas adjacent to waterfront roads.

d. At suitable locations, shorelines should be made available and designated as high intensive use areas that provide for a wide variety of recreational activities.

e. Overall design and development in shoreline recreational areas should be sensitive to the physical site characteristics and be consistent with the level of use in the area concerned.

f. Recreation areas and ancillary facilities on or adjacent to the shoreline should have adequate surveillance and maintenance.

g. Non-water oriented recreational facility development should be setback from the water’s edge, except where appropriate in high intensive shoreline use areas.

SMPP59 The provision of adequate public shoreline recreation lands should be based on an acquisition plan that is consistent with overall goals for enhancing public access to the City’s shorelines.

SMPP60 Existing buildings that enhance the character of the shoreline should be incorporated into recreation areas wherever possible.

SMPP61 A balanced variety of recreational opportunities should be provided for people of different ages, health, family status, and financial ability.

a. Shoreline recreation areas should provide opportunities for different use intensities ranging from low (solitude) to high (many people).

b. Opportunities for shoreline recreational experiences should include developing access that accommodates a range of differences in people’s physical mobility, capabilities, and skill levels.

c. Recreational development should meet the demands of population growth consistent with the carrying capacity of the land and water resources.

Goal

SMPG9 Recreational experiences that depend on, or utilize, the shoreline (including: harvesting activities of fish, shellfish, fowl, minerals, and driftwood; various forms of boating, swimming, and utilization of shoreline pathways; and watching or recording activities, such as photography, painting, or the viewing of water dependent activities) shall be encouraged within parks and other public access areas, given they do not result in a net loss of shoreline ecological functions and are allowed uses under state and local regulations.

Policies

SMPP62 Underwater parks should be extensions of shoreline parks, and whenever possible, be created or enhanced by artificial reefs where natural conditions or aquatic life could be observed with minimal interference.
During storm events, hazardous conditions, or emergencies, temporary use of public recreational shoreline areas by boaters should be allowed.

Prime fishing areas should be given priority for recreational use.

Recreational shellfish harvesting should be allowed on public beaches subject to rules, regulations, and periodic closures by Washington Department of Health and/or Washington Department of Fish and Wildlife.

Boating activities that increase shore erosion should be discouraged.

Effective interpretation should be provided to raise the quality of visitor experiences and provide an understanding of aquatic and shoreline resource.

11.7 CONSERVATION AND RESTORATION ELEMENT

This element promotes and encourages the conservation of natural shoreline resources and shoreline ecological functions, considering but not limited to, such characteristics as scenic vistas, parks and open space, fish and wildlife habitat, beaches, feeder bluffs, estuaries, and other valuable natural or aesthetic features. Additionally, this element promotes and encourages restoration of shoreline functions and ecological processes that have been impaired as a result of past development activities.

Preserve and protect the ecological functions of intact natural shorelines and ecologically sensitive shorelines as outlined within the shoreline inventory and characterization.
Policies

SMPP68 Manage designated critical areas in the shoreline—such as critical aquifer recharge areas and wellhead protection areas, frequently flooded areas, geologically hazardous areas, regulated wetlands, and streams—according to measures provided in this SMP. These include shoreline environment designations, allowed uses, development standards and regulations, and mitigation for unavoidable impacts. They should also be consistent with the policies contained in FWCP Chapter 9, “Natural Environment.”

SMPP69 Develop standards, buffers, and mitigation requirements for designated critical areas in the shoreline consistent with city-wide regulations.

Goal

SMPG11 Assure preservation of unique and non-renewable natural resources and assure conservation of renewable natural resources for the benefit of existing and future generations and the public interest.

Policies

SMPP70 All new development and activity in or adjacent to shoreline areas should be designed, constructed, and operated as to avoid significant adverse impacts to ground or surface water quality. Use of state and local best management practices and guidance should be implemented to avoid significant adverse impacts to water quality.

SMPP71 Shorelines that are of unique or valuable natural character should be considered for acquisition. Subsequent management of such areas should protect or enhance shoreline ecological functions.

SMPP72 Protection and conservation of vegetation within shoreline areas should be managed through implementation of setback, clearing and grading, and mitigation standards for development activity.

SMPP73 Resource conservation should be an integral part of shoreline planning. All future shoreline development should be planned, designed, and sited to minimize adverse impact upon the natural shoreline environment and ecological functions.

SMPP74 Scenic and aesthetic qualities and ecological functions of shorelines should be recognized and preserved as valuable resources.

a. When appropriate, natural flora and fauna should be preserved.
b. In shoreline areas, the natural topography should not be substantially altered.
c. Shoreline structures should be sited and designed to minimize view obstruction and should be visually compatible with the shoreline character.
d. Wildlife and aquatic habitats, including spawning grounds, should be protected.
SMPP75 Resources should be managed to enhance the environment and prevent a net loss of shoreline ecological functions.

a. Shoreline in-water and over-water activities and development should be planned, constructed, and operated to minimize adverse effects on the natural processes of the shoreline, and should maintain or enhance the quality of air, soil, natural vegetation, and water on the shoreline.

b. Use or activity which substantially degrades the natural resources or ecological functions of the shoreline should not be allowed without mitigation as required by SMP regulations and FWRC Title 14, “Environmental Policy.”

SMPP76 Critical salmonid habitats, including saltwater and freshwater habitat used by Pacific salmonid species, support valuable recreational and commercial fisheries and should be protected for their importance to the aquatic ecosystem, as well as state and local economies.

a. Non-water-dependent and non-water-related uses, activities, structures, and landfills should not be located in critical salmonid habitats.

b. Where uses, activities, structures, and landfills must locate in critical salmonid habitats, impacts on these areas should be lessened to the maximum extent possible. Significant unavoidable impacts should be mitigated by creating in-kind replacement habitat near the project where feasible. Where in-kind replacement mitigation is not feasible, rehabilitation of out-of-kind or off-site degraded habitat should be required. Mitigation proposals should be developed in consultation with the City, the State Department of Fish and Wildlife, and any affected Indian Nations.

c. Development that is outside critical salmonid habitats that has the potential to significantly affect said habitats should be located and designed as to not create significant negative impacts to said habitats.
d. Whenever feasible, bioengineering should be used as the bank protection technique for all streams considered to have critical salmonid habitat.

e. Whenever feasible, open pile bridges should be used for all water crossings over areas considered critical salmonid habitat.

f. Impervious surfaces should be minimized in upland developments to reduce stormwater runoff peaks. Structures and uses creating significant impervious surfaces should include stormwater detention systems to reduce stormwater runoff peaks.

g. The discharge of silt and sediments into waterways shall be minimized during in-water and upland construction.

h. Adopt-A-Stream programs and similar efforts to rehabilitate critical salmonid habitats should be encouraged.

i. Fishery enhancement projects should be encouraged where they will not significantly interfere with other beneficial uses.

j. Project proponents should contact the Habitat Division of the State Department of Fish and Wildlife and affected Indian Nations early in the development process to determine if the proposal will occur in or adjacent to critical salmonid habitat.

k. When reviewing permits for uses, activities, and structures proposed in, over, or adjacent to marine waters, streams, wetlands, ponds connected to streams, or any other shoreline area, City staff should contact the Habitat Division of the State Department of Fish and Wildlife to determine if the proposal will occur in or affect any adjacent critical habitats. Staff should also contact affected Indian Nations.

SMPP77 Use the City’s established permit tracking program to periodically evaluate the effectiveness of the SMP for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions. Prepare an evaluation report every seven years when the SMP is required to be updated under RCW 90.58.080(4).

Goal

SMPG12 Develop regional solutions with other jurisdictions, tribes, and interested parties to resolve the challenge of protecting shoreline ecological functions, while also managing shoreline developments.

Policies

SMPP78 Continue work with the State, King County, Watershed Resource Inventory Area (WRIA) 9 Steering Committee, and other governmental and non-governmental organizations to explore how local governments can contribute to the preservation and restoration of ecological processes and shoreline functions.

SMPP79 Continue work with the WRIA 9 forum to restore shoreline habitats and seasonal ranges that support listed endangered and threatened species, as well as other anadromous fisheries.
Goal

SMPG13 Pursue projects to restore and enhance shoreline habitats and processes on publicly owned lands.

Policies

SMPP80 Prioritize enhancement and restoration efforts at public parks and open space lands.

SMPP81 Work with owners of other publicly-owned land, such as Washington State Parks, to encourage restoration and enhancement projects, including funding strategies.

SMPP82 Work with the public and other interested parties to prioritize restoration opportunities identified in Shoreline Inventory and Characterization Report and SMP Restoration Plan.

SMPP83 Promote vegetation restoration, and the control of invasive weeds and nonnative species to avoid adverse impacts to hydrology, and to reduce the hazard of slope failures or accelerated erosion.

SMPP84 Develop a program to implement restoration projects, including funding strategies.

SMPP85 Monitor and adaptively manage restoration projects.

Goal

SMPG14 Encourage voluntary restoration projects on private property in degraded shoreline environments.

Policies

SMPP86 Create incentives that will make it economically or otherwise attractive for development proposals to integrate shoreline ecological restoration into development projects.

SMPP87 Encourage protection, enhancement, or restoration of native riparian vegetation through incentives and non-regulatory programs.

SMPP88 Promote bioengineering and/or soft engineering alternative design approaches to shoreline stabilization and provide technical guidance to shoreline landowners.

SMPP89 Establish public education materials to provide shoreline landowners technical assistance about the benefits of native vegetation plantings.
Goal

**SMPG15** Provide ample opportunity for the public to learn about the ecological aspects and community values of the City’s shorelines.

Policies

**SMPP90** Explore opportunities with other educational organizations and agencies to develop an on-going program of shoreline education for all ages.

**SMPP91** Identify areas where kiosks and interpretative signs can enhance the educational experience of users of the shoreline.

**SMPP92** Develop strategies to fund identified educational and interpretive projects.

### 11.8 HISTORIC AND CULTURAL RESOURCES ELEMENT

This element addresses identification and preservation of historic and cultural resources that are located in or associated with Federal Way’s shorelines. Such resources may include historic structures or buildings, historic use or activities in the shoreline, and archaeological resources.

Goal

**SMPG16** Identify, protect, preserve, and restore important archaeological, historical, and cultural sites located in or associated with Federal Way’s shorelines for scientific and educational purposes.

Policies

**SMPP93** Manage cultural and historic resources in the shoreline consistent with city-wide policies for treatment of such resources in the FWCP.

**SMPP94** Recognize that shoreline areas are of moderate to high probability for archaeological resources and require appropriate review and site investigation for proposed development or modifications.

### 11.9 CIRCULATION ELEMENT

This element deals with the location and extent of existing and proposed thoroughfares, transportation routes, and other public facilities; and coordinating those facilities with shoreline uses.

Goal

**SMPG17** Circulation systems in shoreline areas should be limited to those that are shoreline dependent or would serve shoreline dependent uses, or those that must pass through shoreline areas. The environment shall be protected from any
significant adverse effects of circulation systems required in shoreline areas.

Policies

SMPP95 New surface transportation development should be designed to provide the best possible service with the least possible infringement upon shoreline areas.

a. New transportation facilities and improvements to existing facilities that substantially increase levels of air, noise, odor, visual, or water pollution should be discouraged, unless benefits of the facility outweigh costs.

b. Transportation corridors should be designed to harmonize with the topography and other natural characteristics of the shoreline through which they traverse.

c. New surface transportation facilities in shoreline areas should be set back from the ordinary high water mark far enough to make unnecessary such protective measures as rip-rap or other bank stabilization, landfill, bulkheads, groins, jetties, or substantial site regrade.

d. New transportation facilities crossing lakes, streams, wetlands, or other critical areas should be encouraged to locate in existing corridors, except where any adverse impact can be minimized by selecting an alternate corridor.

e. Shoreline circulation systems should be adaptable to changes in technology.

SMPP96 Circulation systems should be located and attractively designed so as not to unnecessarily or unreasonably pollute the physical environment, or reduce the benefits people derive from their property.

a. Motorized vehicular traffic on beaches and other natural shoreline areas shall be prohibited.

b. Transportation facilities providing access to shoreline developments should be planned and designed in scale and character with the use proposed.

c. New transportation facilities should minimize total impervious surface area by generally being oriented perpendicular to the shoreline where topographic conditions will allow.

SMPP97 Circulation systems should be designed to enhance aesthetic experiences through creating shoreline vista and access points and encouraging alternative modes of transportation.

SMPP98 New transportation developments in shoreline areas should provide turnout areas for scenic stops and off road rest areas where the topography, view, and natural features warrant, consistent with the public access and recreation policies.

SMPP99 Shoreline roadway corridors with unique or historic significance, or of great aesthetic quality, should be retained and maintained for those characteristics.

SMPP100 Shoreline circulation routes should provide for non-motorized means of
travel and should incorporate multimodal provisions where public safety can be assured.

SMPP101 The existing system of pedestrian ways, bikeways, and equestrian ways in the City should be extended to provide safe access to public parks located on the shoreline.

SMPP102 Shoreline roadways should have a high priority for arterial beautification funds.

SMPP103 Regionally significant pedestrian and bicycle facilities and amenities along shoreline circulation routes should be pursued in partnership with other agencies.

SMPP104 Pedestrian access should be built where access to public shorelines is desirable and has been cut off by linear transportation corridors. New linear facilities should enable pedestrian access to public shorelines where access is desirable.

SMPP105 Transportation and utility facilities should be encouraged to coordinate joint use of rights-of-way and to consolidate crossings of water bodies when doing so can minimize adverse impact to the shoreline.

11.10 SHORELINE ENVIRONMENTS

Intent

In order to more effectively implement the goals, objectives, and policies of this master program and the SMA, the shorelines of the state within Federal Way have been categorized into three separate environment designations. The purpose of these designations is to differentiate between areas whose geographical features, ecological functions, and existing development pattern imply differing objectives regarding their management, use, and future development.

Each environment represents a particular emphasis in the type of uses and the extent of development that should occur within it. The system is designed to encourage uses in each environment, which enhance the character of the environment while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not destroyed.

The determination as to which designation should be given to any specific shoreline area has been based on, and is reflective of, the existing development pattern; the biophysical capabilities and limitations of the land; and the goals and aspirations of the local citizenry.

Each environment designation includes: (1) a purpose statement which clarifies the meaning and intent of the designation; (2) criteria to be used as a basis for classifying a specific shoreline area with that environment designation; and (3) detailed management policies designed to guide management decisions and development consistent with the character of the environment.
Shoreline Residential

Purpose
The purpose of the “Shoreline Residential” environment is to accommodate residential development and appurtenant structures that are consistent with SMP Guidelines—WAC 173-26-211(5)(f). An additional purpose is to provide appropriate public access and recreational uses.

Criteria
The Shoreline Residential environment designation is assigned to shoreline areas inside the City of Federal Way and the City’s Potential Annexation Area (PAA) if the areas are predominantly single-family or multi-family residential development, or are planned and platted for residential development.

Management Policies
1. Residential uses shall be the primary use. Development and redevelopment activities shall be focused within already developed areas.

2. Standards shall be developed and implemented for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

3. Multi-family and multi-lot residential and recreational developments shall provide public access and joint use for community recreational facilities.

4. All residential development shall occur in a manner consistent with the policies listed under SMPG2 of the shoreline use element.

Urban Conservancy

Purpose
The purpose of the “Urban Conservancy” environment is to protect and restore ecological functions of open space, flood plain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Criteria
The Urban Conservancy environment designation is assigned to shoreline areas appropriate and planned for development that are compatible with maintaining or restoring the ecological functions of the area that are not generally suitable for water-dependent high-intensity uses. The Urban Conservancy environment is applied to shorelines if any of the following characteristics apply:
1. They have open space, flood plain, or other sensitive areas that should not be more intensively developed;

2. They have potential for ecological restoration;

3. They retain important ecological functions, even though partially developed; or

4. They have the potential for development that is compatible with ecological restoration.

**Management Policies**

1. Residential, recreational, commercial, and public facility uses should be allowed, provided they preserve the natural character of the area or promote preservation of open space, flood plain, bluffs, or sensitive lands either directly or over the long term. Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

2. Standards should be developed and implemented for management of environmentally sensitive or designated critical areas to ensure that new development does not result in a net loss of shoreline ecological functions, or further degrade other shoreline values. Development standards should be developed and implemented for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality.

3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

4. To enhance the waterfront and ensure maximum public use, commercial or office facilities should be designed to permit pedestrian waterfront activities consistent with public safety, security, and protection of shoreline ecological functions.

5. Aesthetic considerations should be actively promoted by means of sign control regulations, architectural design standards, landscaping requirements, and other such means.

**Natural**

**Purpose**

The purpose of the “Natural” environment 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, the City of Federal Way should include planning for restoration of degraded shorelines within this environment.
Criteria
A Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply: (A) the shoreline is ecologically intact and therefore, currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; (B) the shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or (C) the shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Management Policies

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area shall not be allowed.

2. The following new uses shall not be allowed in the Natural environment:
   - Commercial uses;
   - Industrial uses;
   - Non-water-oriented recreation; and
   - Roads, utility corridors, and parking areas that can be located outside of the Natural designated shorelines.

3. Single-family residential development may be allowed as a conditional use 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.

4. 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.

5. 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.
Federal Way Shoreline Management Plan

Federal Way and Its Potential Annexation Area

Legend
- City of Federal Way
- Potential Annexation Area
- Regulated Shoreline

1A Puget Sound East
1B Puget Sound - Dumas Bay
1C Puget Sound West
2 Steel Lake
3 Star Lake
4 Lake Dolloff
5 Lake Geneva
6 North Lake
7 Lake Killarney
8 Five Mile Lake

Map Date: May 2006

This map is accompanied by NO warranties, and is simply a graphic representation.
Chapter 15.05
SHORELINE MANAGEMENT

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Article I. Generally

15.05.010 Purpose and authority.

The city adopts these regulations under the authority of the Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended, and the Shoreline Management Guidelines, Chapter 173-26 WAC. The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this title and has the authority to administer and enforce this title and any such rules and regulations. It is unlawful to violate or fail to comply with any provision of this title or any such rule or regulation.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.020 Jurisdiction.

(1) The provisions of this article shall apply to all development proposed within the areas defined as “shorelines” in RCW 90.58.030(2)(d), and “shorelines of state-wide significance” in RCW 90.58.030(2)(e), and “shorelands” in RCW 90.58.030(2)(f); see FWRC 15.05.030, Additional definitions. The approximate location of these shorelines shall be designated on maps maintained by the community development department; however, the property owner or applicant shall be responsible for determining the specific location of the shoreline jurisdiction on the subject property when a permit is filed. The city shall be responsible for verifying shoreline jurisdiction. Washington Department of Ecology may be contacted to delineate the ordinary high water mark (OHWM) on a subject property as per its authority and responsibilities outlined in RCW 90.58.030(2)(f). Shorelines of the state are as follows:

   (a) Within city limits: North Lake, Steel Lake, and the northwest portion of Lake Killarney.

   (b) Within the city’s Potential Annexation Area: Star Lake, Lake Dolloff, Lake Geneva, Five Mile Lake, and the remaining portion of Lake Killarney.

   (c) Puget Sound.

(2) No development shall be undertaken by any person on the shorelines of the state without obtaining a shoreline permit from the department of community development, or an authorized statement of exemption per WAC 173-27-040 and for developments exempted by RCW 90.58.140(9) and (10).

(3) All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and the city of Federal Way shoreline master program whether or not a permit is required.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
15.05.030 Additional definitions.

Unless otherwise defined in this chapter, the definitions contained in this section, FWRC Title 15, Chapter 90.58 RCW, Chapters 173-26 and 173-27 WAC, Chapter 19.05 FWRC or FWRC 1.05.020 shall apply in that order.

“Act” means the Washington State Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

“Amendment” means a revision, update, addition, deletion, and/or reenactment to the Federal Way shoreline master program.

“Appurtenance, residential” means an improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the (“OHWM”), the perimeter of a wetland, and outside their corresponding required buffers. Appurtenances include a garage; driveway; utilities; water craft storage (upland); swimming pools; hot tub; retaining walls; fences; yards; sauna; cabana; antennas; decks; walkways; stairs; trams; and grading that does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of a marine or freshwater OHWM. Appurtenances do not include secondary sleeping areas or accessory dwelling units.

“Aquaculture” means the farming or culturing of food fish, shellfish or other aquatic plants and animals in streams, inlets, and other natural or artificial water bodies. Activities include the hatching, cultivating, planting, feeding, raising and harvesting of aquatic plants and animals, and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include but are not limited to fish pens, fish traps, or other similar apparatuses.

“Average grade level” means, for a structure built on land, the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over the water, “average grade level” shall be the elevation of the ordinary high water mark (OHWM). Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

“Backshore” means a berm, together with associated marshes or meadows, on marine shores landward of the ordinary high water mark which is normally above high tide level and has been gradually built up by accretion.

“Bank” means a steep rise or slope at the edge of a body of water or water course.
“Beach nourishment” means the artificial replenishing of a beach by delivery of materials dredged or excavated elsewhere.

“Berm” means a ledge or shoulder consisting of mounded earth or rock.

“Bluff” means a steep slope which abuts and rises from Puget Sound. Bluffs contain slopes predominantly in excess of 40 percent, although portions may be less than 40 percent. The toe of the bluff is the beach of Puget Sound. The top of a bluff is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the slope is either the line of vegetation separating the unvegetated slope from the vegetated uplands plateau or, when the bluff is vegetated, the point where the bluff slope diminishes to less than 15 percent.

“Boating facility” means a facility or structure providing access in and out of the water for vessels, such as a launching ramp, rails, or lift station open to the public. For purposes of the shoreline master program, boating facilities do not include docks, piers, moorage piles, mooring buoys, or floats associated with single-family residences or other joint-use structures not accessible to the public.

“Breakwater” means an off-shore structure, either floating or not, which may or may not be connected to the shore, such structure being designed to absorb and/or reflect back into the water body the energy of the waves.

“Bulkhead” means a wall, seawall, embankment, or other structure erected at or near the OHWM and roughly parallel to the shoreline that retains or prevents sliding or erosion of land or protects land and/or structures from wave or current action.

“Commercial use” means the uses allowed in the commercial zones and the nonindustrial uses permitted in the commercial enterprise zone.

“Conditional use” means a use, development, or substantial development which is classified as a shoreline conditional use or is not classified within the shoreline master program.

“Critical salmonid habitats” means habitats that are used by Pacific salmonid species that migrate between fresh water and salt water during their life cycle. These habitats include:

(1) Gravel bottomed streams used for spawning;

(2) Streams, lakes, and wetlands used for rearing, feeding, and cover and refuge from predators and high waters;
(3) Streams and salt water bodies used as migration corridors;

(4) Shallow areas of salt water bodies used for rearing, feeding, as well as cover and refuge from predators and currents, including, but not limited to, forage fish habitats such as sandy beaches and eelgrass beds; and

(5) Pocket estuaries including stream mouths and deltas where fresh water mixes with salt water and provides rearing habitat for juvenile salmonids. All salt water shorelines in Federal Way are critical salmonid habitats.

“Date of filing” see FWRC 15.05.180(2) ‘Final approval of shoreline permits’ for full definition.

“Department” means the department of community development services, unless the context indicates otherwise.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act (Chapter 90.58 RCW) at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development.

“Dock” means all platform structures floating upon water bodies and connected to land to provide moorage or landing for waterborne pleasure craft.

“Dredging” means the removal of earth from the bottom of a stream, marine water body, lake or other water body for the purposes of deepening and/or maintaining a navigational channel.

“Drift cell” (also referred to as “drift sector,” or “littoral cell”) means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

“Ecological functions” means the work performed or role played by the physical, chemical, and biological processes in the shoreline that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
“Exemptions” means those development activities which are not required to obtain a substantial development permit, but which must obtain an authorized statement of exemption and which must otherwise comply with applicable provisions of the Shoreline Management Act and the city’s local shoreline master program.

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

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

(1) 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;

(2) The action provides a reasonable likelihood of achieving its intended purpose; and

(3) The action does not physically preclude achieving the project’s primary intended legal use. In determining an action’s feasibility, the reviewing agency may weigh the action’s relative public costs and public benefits considered in the short- and long-term time frames.

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

“Float” means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of Federal Way, and which is not connected to the shoreline.

“Floating home” means a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

“Floating on-water residence” means any floating structure other than a floating home, as defined by this chapter that is designed or used primarily as a residence on the water and has detachable utilities.

“Floodway” means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps.
“Floodplain” means the 100-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

“Geologically hazardous areas” means areas which because of their susceptibility to erosion, landsliding, seismic, or other geological events are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas include the following areas:

(1) Erosion hazard areas are those areas having a severe to very severe erosion hazard due to natural agents such as wind, rain, splash, frost action, or stream flow.

(2) Landslide hazard areas are those areas potentially subject to episodic downslope movement of a mass of soil or rock including, but not limited to, the following areas:

   (a) Any area with a combination of:

      (i) Slopes greater than 15 percent;

      (ii) Permeable sediment, predominately sand and gravel, overlying relatively impermeable sediment or bedrock, typically silt and clay; and

      (iii) Springs or groundwater seepage.

   (b) Any area which has shown movement during the Holocene epoch, from 10,000 years ago to the present, or which is underlain by mass wastage debris of that epoch.

   (c) Any area potentially unstable as a result of rapid stream incision, stream bank erosion, or undercutting by wave action.

   (d) Any area located in a ravine or on an active alluvial fan, presently or potentially subject to inundation by debris flows or flooding.

   (e) Those areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development.

   (f) Those areas mapped as Class U (unstable), UOS (unstable old slides), and URS (unstable recent slides) by the Department of Ecology.
(g) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking.

(3) Seismic hazard areas are those areas subject to severe risk of earthquake damage as a result of seismically induced ground shaking, slope failure, settlement or soil liquefaction, or surface faulting. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

(4) Steep slope hazard areas are those areas with a slope of 40 percent or greater and with a vertical relief of 10 or more feet, a vertical rise of 10 feet or more for every 25 feet of horizontal distance. A slope is delineated by establishing its toe and top, and measured by averaging the inclination over at least 10 feet of vertical relief.

“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.

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

“Groin” means a barrier type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt sediment movement along the shore.

“Height” means that distance measured from average grade level to the highest point of a structure; excluding television antennas, chimneys, temporary construction equipment, and similar appurtenances, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included.

“Jetty” means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment.

“Landslide” means an episodic downslope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, and earthflows.
“Littoral drift” means the natural movement of sediment along marine or lake shorelines by wave action in response to prevailing winds.

“Marine” means pertaining to tidally influenced waters, including Puget Sound and the bays, estuaries, and inlets associated therewith.

“Mooring buoys” means a floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels.

“Native shoreline vegetation” means trees, shrubs, and other plant species that are indigenous to a specific area or region and native to western Washington as referenced in *Flora of the Pacific Northwest* (Hitchcock and Cronquist). Ornamental landscaping and invasive species shall not be considered native shoreline vegetation.

“Natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavating or filling.

“Nearshore” means either nearshore environment or nearshore habitat and refers generally to an area along the Puget Sound shoreline that extends from the top of bluffs or upland area immediately adjacent to the beach to the point where sunlight penetrates marine waters to a depth where aquatic plant life is supported.

“Nonconforming development” means an existing structure that was lawfully constructed when 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.

“Nonconforming structure” See nonconforming development.

“Nonconforming use” means a shoreline use which was lawfully established prior to the effective date of the Act or the applicable shoreline master program, or amendments thereto, but which does not conform to present use regulations of the shoreline master program.

“Non-water-oriented uses” means those uses that are not water-dependent, water-related, or water-enjoyment, and which have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores, and gas stations.
“**Ordinary high water mark (OHWM)**” means the mark on all lakes, streams, and tidal waters that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition existed 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 of Ecology. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

“**Permit**” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW.

“**Pier**” means any fixed platform structure upon water bodies that is supported by piles and connected to land.

“**Primary structure**” means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest value shall be considered the primary structure.

“**Public access**” means the general public’s ability to view, reach, touch, and enjoy the water’s edge and use the state’s public waters, the water/land interface, and associated public shoreline area. Public access also includes actual, physical, unobstructed access from land to the ordinary high water mark or adjacent shorelands.

“**Public utility**” means the facilities of a private business organization such as a public service corporation, or a governmental agency performing some public service and subject to special governmental regulations, the services which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, electric power, telephone, cablevision, natural gas, and transportation for persons and freight. The term also includes broadcast towers, antennas, and related facilities operated on a commercial basis.

“**Recreational development**” means commercial and public facilities designed and used to provide recreational opportunities to the public.

“**Replacement structure**” means the construction of a new structure to perform the same function as an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing structures shall not be considered replacement structures.
“Residential development” means developments and occupancy in which persons sleep and prepare food, other than developments used for transient occupancy. Residential development includes the creation of new residential lots through subdivision of land. Residential development does not include floating homes, floating on-water residences, live-aboard vessels, or converted residential appurtenances.

“Restoration” means, in the context of “ecological restoration,” the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

“Riprap” means a layer, facing, or protective mound of angular stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

“Shall” means a mandate; the action must be done.

“Shorelands,” also referred to as “shoreland areas,” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways, and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

“Shoreline administrator” means the director of the department of community development or his or her designee and is responsible for administering the Federal Way shoreline master program.

“Shoreline environment designation” means the categories of shorelines of the state established by the city of Federal Way shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

“Shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in the Federal Way shoreline master program and RCW 90.58.030.

“Shoreline master program (SMP)” means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.
“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 and grading.

“Shoreline stabilization” means structural and nonstructural actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind, or wave action. Expansion or enlargement of existing stabilization measures is considered new stabilization.

“Shoreline variance” means to grant relief from the specific bulk, dimensional, or performance standards in the local shoreline master program, but not a means to vary a “use” of a shoreline.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (1) shorelines of statewide significance; (2) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and (3) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shorelines of statewide significance” means those areas of Puget Sound in the city of Federal Way lying seaward from the line of extreme low tide.

“Shorelines of the state” means the total of all “shorelines” and “shorelines of statewide significance” within the city of Federal Way.

“Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this title, against taking the action.

“SMA” means the Shoreline Management Act.

“SMP” means the shoreline master program.

“Soft-shore bank stabilization” means the use of bioengineering or biotechnical bank stabilization measures where vegetation, logs, rock, and beach nourishment are used to address erosion control and slope stability.

“Stringline setback” means a straight line drawn between the points on the primary structures having the greatest projection waterward on the two adjacent properties. If one of the adjacent properties is unimproved,
the line shall be drawn to the point of the standard shoreline setback at the side property line of the unimproved lot.

“Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substantial accessory structure” means nonprimary structures equal to or larger than 400 square feet and in good repair.

“Vegetation conservation area” means an upland area adjacent to the ordinary high water mark or top of bluff where existing native vegetation and native trees shall be retained per the requirements of the Federal Way shoreline master program. The width of the vegetation conservation area is consistent with setback requirements for specific uses and shoreline environment designations.

“Vessel” means ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

“Water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this title, the term “water quantity” refers only to development and uses regulated under this chapter 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 90.03.340.

“Water-dependent use” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.
“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

“Water-related” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic vitality is dependent upon a waterfront location because:

1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

2. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include professional services serving primarily water-dependent activities and storage of water-transported foods.

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

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

Article II. Shoreline Regulation

15.05.040 General development standards.

The following general development standards apply to all uses and activities in all shoreline environments:

1. Impact mitigation.

   a. To the extent the Washington State Environmental Policy Act of 1971 (SEPA), Chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (FWRC 14.05.010 and Chapter 197-11 WAC). Mitigation for adverse impacts to shoreline functions will
be triggered during the SEPA review, shoreline land use permit process, or exemption approval process.

(b) Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.

(i) Avoiding the impact altogether by not taking a certain action or parts of an action;

(ii) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(iii) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(iv) Reducing or eliminating the impact over time by preservation and maintenance operations;

(v) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(vi) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(c) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(d) Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.

(e) Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policy of the Shoreline Management Act.

(f) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and are located in the immediate vicinity of the impact. However, alternative compensatory mitigation may be authorized if said mitigation occurs within the watershed and
addresses limiting factors or identified critical needs for shoreline conservation based on watershed or comprehensive management plans. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

(2) **Vegetation conservation.** Existing shoreline vegetation shall be preserved per development standards established for each shoreline environment designation as listed in the development standards table and the setback standards in FWRC 15.05.070(6).

(3) **Water quality/stormwater.** All activities and development within the shoreline jurisdiction shall incorporate water pollution control measures and best management practices (BMPs) for stormwater management. Such measures shall address both temporary impacts to water quality from construction activities as well as the need for permanent stormwater management facilities in compliance with the requirements and restrictions of all applicable city and state regulations.

(4) **Critical areas.** Chapter 19.145 FWRC, Environmentally Critical Areas, (Ordinance 19-873, July 2, 2019) is adopted by reference into the master program. Activities and development in critical areas found within shoreline jurisdiction are required to comply with the development standards outlined in Chapter 19.145 FWRC, Environmentally Critical Areas, and Chapter 19.142 FWRC, Flood Damage Prevention, for each area described below.

(a) Activities and alterations to critical areas, shorelines of the state, and their buffers shall be subject to the provisions of Chapter 15.05 FWRC (master program). The master program defers to the director on determining whether an activity affecting critical areas in shoreline jurisdictions is exempt from shoreline permit requirements, per WAC 173-27-040. The following provision does not apply within shoreline jurisdiction:

(i) FWRC 19.145.090, Reasonable use of the subject property. In shoreline jurisdiction, these requests are processed through a shoreline variance.

(b) Any conflict between the standards outlined in Chapter 19.145 or 19.142 FWRC and the SMP shall be resolved in favor of the standard that is most protective of the shoreline ecological functions. In addition to the development standards outlined in Chapters 19.145 and 19.142 FWRC, the following minimum requirements shall apply with regard to activities and development in critical areas found within shoreline jurisdiction with the following clarifications and modifications:
(i) Minimum setbacks from the OHWM established by this chapter shall be maintained in all cases unless a shoreline variance is granted. Shoreline setbacks are defined in FWRC 15.05.070(6).

(ii) When FWRC 19.145.440 (Development within wetland buffers), subsections (5) Buffer averaging and (6) Buffer reduction with enhancement are utilized for a project proposal, a shoreline variance permit is required if the overall proposed buffer width reduction exceeds 25 percent.

(iii) The provisions of Federal Way Environmentally Critical Area regulations do not extend shoreline jurisdictions beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside shoreline jurisdiction, see Chapter 19.145 FWRC.

(iv) If any provision of the Environmentally Critical Areas Ordinance conflict with the Shoreline Management Act, Chapter 90.58 RCW, or supporting Washington Administrative Code chapters, the more restrictive regulations shall apply.

(c) Geologically hazardous areas. Regulated geologically hazardous areas located in the shoreline jurisdiction include seismic hazard areas, landslide hazard areas, steep slopes, and erosion hazard areas. If a geologically hazardous area is located within the shoreline jurisdiction, all activities on the site shall be in compliance with the requirements and restrictions of Articles I and II of Chapter 19.145 FWRC. In addition to the development standards outlined in Chapter 19.145 FWRC, the following shall apply with regard to activities and development in geologically hazardous areas found within shoreline jurisdiction:

(i) Creation of new lots shall be prohibited where development and use on new lots would cause a foreseeable risk from geological conditions during the life of the development.

(ii) New development that causes risk from geological conditions shall not be allowed.

(iii) New development on sites with steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical report. 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.
(d) *Streams and wetlands.* If a stream or wetland is located within the shoreline jurisdiction, all activities within the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, III, and IV of Chapter 19.145 FWRC.

(e) *Flood damage reduction.* If an area of special flood hazard is located on or adjacent to a development site within shoreline jurisdiction, all activities on the site shall be in compliance with the requirements and restrictions of Chapter 19.142 FWRC. All activities allowed within the special flood hazard area by the requirements and restrictions of Chapter 19.142 FWRC shall not result in a net loss of ecological function.

(f) *Critical aquifer recharge areas and wellhead protection areas.* If a critical aquifer recharge area or wellhead protection area is located within the shoreline jurisdiction, all activities within the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, and V of Chapter 19.145 FWRC.

(5) *Critical salmonid habitats.* All salt water shorelines in Federal Way are critical salmonid habitats. Activities and development in critical salmonid habitats found within the shoreline jurisdiction are required to comply with the following development standards, in addition to those contained in other sections of this chapter:

(a) Structures which prevent the migration of salmon and steelhead are prohibited. Fish bypass facilities shall allow the upstream migration of adult fish. Fish bypass facilities shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(b) Shoreline modification structures may intrude into critical salmonid habitats only where the proponent demonstrates all of the following conditions are met:

   (i) An alternative alignment or location is not feasible;

   (ii) The project is designed to minimize its impacts on the environment;

   (iii) If the project will create unavoidable adverse impacts, the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute;

   (iv) The project satisfies all provisions of FWRC 15.05.050, Shoreline modifications.
(c) Open pile bridges are the preferred water crossing structures over critical salmonid habitats. If a bridge is not feasible, one of the following water crossing structures may be approved if the impacts can be mitigated: temporary culverts, bottomless arch culverts, elliptical culverts, or other fish-passable round culverts. These structures are listed in priority order, with the first having the highest preference and the last the lowest preference. In order for a lower priority structure to be permitted, the applicant must show the higher priority structures are not feasible. The project shall be designed to minimize its impacts on the environment.

(d) Bridges and in-water utility corridors may be located in critical salmonid habitats provided the proponent shows that all of the following conditions are met:

(i) An alternative alignment is not feasible;

(ii) The project is located and designed to minimize its impacts on the environment;

(iii) Any alternative impacts are mitigated; and

(iv) Any landfill is located landward of the ordinary high water mark.

Open piling and piers required to construct the bridge may be placed waterward of the ordinary high water mark, if no alternative method is feasible.

When installing in-water utilities, the installer may be required to place native material on the bed and banks of the water body or wetland to reestablish the preconstruction elevation and contour of the bed. The project shall be designed to avoid and minimize impacts on the environment.

(e) Dredging in critical salmonid habitats shall not be allowed unless the proponent demonstrates all of the following conditions are met:

(i) The dredging is for a water-dependent or water-related use;

(ii) An alternative alignment or location is not feasible;

(iii) The project is designed to minimize its impacts on the environment;

(iv) The project is in the public interest; and
(v) If the project will create significant unavoidable adverse impacts, then the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.

(f) In-water dredge spoil disposal sites shall not be located in critical salmonid habitats.

(g) Filling, dumping, discharging (including discharging of stormwater), commercial or industrial wastewater, dredging, channelization, draining, flooding, disturbing the water level, duration of inundation or water tables, and other activities which negatively impact habitat are prohibited in wetlands, ponds, and side channels which are associated with critical salmonid habitats.

(h) Within critical salmonid habitats, permanent channel changes and realignments are prohibited.

(i) The removal of aquatic and riparian vegetation within or adjacent to critical salmonid habitats shall be minimized. Trees which shade side channels, streams, estuaries, ponds, and wetlands associated with critical salmonid habitats shall be maintained consistent with the provisions of this chapter. Areas of disturbed earth shall be revegetated.

(j) Unless removal is needed to prevent hazards to life and property or to enhance critical salmonid habitats, large woody debris below the ordinary high water mark shall be left in the water to provide salmon and steelhead habitat.

(6) Archaeological and historic resources.

(a) If any archaeological artifacts are uncovered during excavations in the shoreline, work must stop immediately and the city of Federal Way, the state Department of Archaeology and Historic Preservation, the Muckleshoot Indian Tribe, and the Puyallup Tribe of Indians must be notified.

(b) Proposals for ground disturbing activities in areas known to contain an historic, cultural, or archaeological resource(s) or highly suspected to contain archaeological artifacts and data shall require a site inspection and evaluation by a professional archaeologist or historic preservation professional, as applicable, prior to issuance of a permit or initiation of disturbance. The evaluation shall include recommendations for monitoring of potentially disruptive activities, data
recovery, and/or mitigation measures if warranted. Cost for inspection and evaluation of the site will be the responsibility of the applicant.

(c) If archeological items are found during excavation work, the applicant shall stop work and apply for an Archeological Excavation and Removal Permit, per Chapter 25-48 WAC.

(d) Archeological site investigations are required for sites as defined by Washington State Department of Archeology and Historic Preservation predictive model rates as “survey recommended: moderate risk, and “survey highly advised: very high risk.”

(7) Public access.

(a) In review of all shoreline permits or developments of more than four residential lots or dwelling units per WAC 173-26-241, or subdivision of land into more than four lots, or commercial development, or non-water-dependent uses (including water-enjoyment and water-related uses) consideration of public access and joint use of community recreational facilities shall be required when:

(i) The development would generate demand for one or more forms of public shoreline access; and/or

(ii) The development would eliminate, restrict, or otherwise impair existing legal access opportunities or rights. In these instances, public access shall be provided by the development in a form, as detailed by subsection (7)(d) of this section, consistent in character with the existing public access that was eliminated, restricted, or otherwise impaired.

(b) Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

(c) Public access requirements shall not be required when the applicant demonstrates that one or more of the following provisions apply:

(i) Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
(ii) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

(iii) The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total long-term cost of the proposed development;

(iv) Significant environmental impacts would result from the public access that cannot be mitigated; and/or

(v) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

(d) Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, or other area serving as a means of view and/or physical approach to shorelines of the state and may include interpretive centers and displays.

(e) Public access locations shall be clearly marked with visible signage.

(f) Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).

(g) Shoreline development by any public entities, including the city of Federal Way, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment or other provisions in this section.

(8) Restoration projects.

(a) Restoration projects within the shoreline environment consistent with WAC 173-27-080(2)(c) shall be allowed without a shoreline substantial development permit; be reviewed through the shoreline exemption review process; and be designed consistent with the development standards outlined in Chapter 19.145 FWRC – Critical Areas and the provisions of this chapter.

(b) Approval of restoration projects shall be based on a review of a plan containing, at a minimum, an analysis of existing conditions, identification of the area to be restored, proposed
corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary.

(c) The Director shall require an applicant to retain the services of a qualified professional in preparing the restoration plan. Intrusions into regulated steep slopes and associated setbacks will be allowed for purposes of approved restoration projects.

(d) The Director may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas as long as such relief is consistent with criteria and procedures in WAC 173-27-215.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.050 Shoreline modifications.

(1) Shoreline stabilization. Shoreline stabilization may be permitted in the shoreline residential environment. Hard armoring (e.g., bulkheads and riprap) is subject to a shoreline conditional use permit in the urban conservancy environment. Soft-shore stabilization may be permitted in the urban conservancy environment. Shoreline stabilization proposals shall address the following:

(a) Shoreline stabilization, including bulkheads, shall not be considered an outright permitted use on the city’s shorelines. In order for shoreline stabilization to be permitted the city must find that:

(i) The applicant shall provide a geotechnical report, prepared by a qualified professional, that estimates the rate of erosion and evaluates alternative solutions; the urgency associated with the specific situation; and demonstrate the project is consistent with WAC 173-26-231; and

(ii) Soft-shore stabilization alternatives such as slope drainage systems, vegetative growth stabilization, gravel berms, and beach nourishment shall be prioritized over structural options such as bulkheads and riprap. The “softest” effective alternative shall be utilized; and

(iii) In the case of proposed hard armoring stabilization solutions (e.g., bulkheads and riprap), erosion from waves or currents presents a clear and imminent (damage within three years) threat to a legally established primary structure, one or more substantial
accessory structures, water-dependent development, ecological restoration/toxic clean-up remediation projects, or public improvements; and

(iv) In the case of bulkheads and riprap, the proposed shoreline stabilization is located landward of the ordinary high water mark; and

(v) The proposed shoreline stabilization is the minimum size necessary to protect existing improvements; and

(vi) The applicant shall demonstrate that impacts to sediment transport are minimized to the greatest extent possible; and

(vii) Shoreline stabilization shall not have an adverse impact on the property of others and shall be designed so as not to create the need for shoreline stabilization elsewhere; and

(viii) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body and shall be constructed using an approved filter cloth or other suitable means to allow passage of surface and groundwater without internal erosion of fine material; and

(ix) Shoreline stabilization shall not be used to create new lands; and

(x) Use of chemically treated wood is prohibited for any shoreline stabilization proposal within fresh water lake shorelines; and

(xi) Use of creosote treated wood is prohibited within marine shorelines; and

(xii) Revegetation with native plants is required as part of the shoreline stabilization project; and

(xiii) Shoreline stabilization shall not otherwise result in a net loss of ecological functions.

(b) When a bulkhead or other structural alternative is permitted subject to subsection (1)(a) of this section, the following standards shall apply:

(i) The maximum height of the proposed bulkhead or other stabilization structure is no more than one foot in height above the elevation of ordinary high water mark on lakes, measured from grade on the waterward side of the bulkhead or structure; and the
minimum necessary to protect the upland structure(s) or development proposal(s) along tidal waters. Minimum necessary bulkhead height requirements must be supported by both recorded tidal events and geotechnical documentation by a qualified professional. The city may employ an outside consultant at the applicant’s expense for third-party review of the report.

(ii) When a bulkhead or other stabilization structure has deteriorated such that the ordinary high water mark has been established by the presence and action of water landward of the existing bulkhead, then the replacement bulkhead or structure must be located at or landward of the ordinary high water mark.

(iii) Repair of an existing bulkhead or other stabilization structure is permitted provided that the repaired bulkhead or structure is not relocated further waterward or increased in height.

(iv) If an existing bulkhead or other stabilization structure is destroyed it may be replaced as it existed prior to destruction, provided application for required permits is made within one year of destruction. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

(v) Soft-shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

(vi) The project satisfies the provisions of FWRC 15.05.040(5)(b).

(c) Creation of new lots shall be prohibited where development and use on new lots would require structural shoreline stabilization over the life of the development. The following standards shall apply to new development.

(i) New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

(ii) New development, including newly created parcels, is required to be designed and located to prevent the need for future shoreline stabilization as documented by a geotechnical analysis.
(iii) New development on steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical analysis.

(2) **Piers, docks, floats, and mooring buoys.** Piers, docks, floats, and mooring buoys may be permitted in the shoreline residential and urban conservancy environments subject to the following conditions:

(a) Public piers and docks shall only be allowed for water-dependent uses and public access subject to a shoreline conditional use permit and the following criteria:

   (i) Public’s need for such a structure is clearly demonstrated;

   (ii) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical salt water habitat;

   (iii) The project is consistent with the state’s interest in resource protection and species recovery; and

   (iv) Moorage at public docks is limited to recreational purposes and shall not extend more than one 24-hour period. Public docks may not be used for commercial or residential moorage.

(b) Residential piers, docks, floats, or mooring buoys may be permitted accessory to a single-family residence, or as common use facilities associated with a subdivision, short subdivision, or multifamily development, in accordance with this chapter and the following limitations:

   (i) Residential mooring buoys are preferred over docks and piers on the Puget Sound shoreline. Applicants for a residential dock or pier on the Puget Sound shoreline must demonstrate why a mooring buoy will not provide adequate moorage for recreational watercraft.

   (ii) No more than one pier, dock, float, or mooring buoy for each existing residential lot is permitted.

   (iii) New residential developments of two or more units, subdivisions, or short subdivisions shall be limited to one shared dock or pier.
(A) The total number of moorage spaces shall be limited to one moorage space for every dwelling unit up to four. For each two dwelling units after four, one additional moorage space is permitted.

(c) All docks and piers shall be subject to the mitigation requirements per FWRC 15.05.040(1) and will result in no net loss of ecological functions associated with critical salt water habitat. A preliminary eelgrass survey as specified under the Army Corps of Engineers, Regional General Permit, RGP 6 shall be required for new docks or piers on the Puget Sound shoreline.

(d) No dwelling unit may be constructed on a pier or dock.

(e) No covered pier, covered dock, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark.

(f) Piers, docks, mooring buoys, or floats shall meet the side and rear yard setbacks of the underlying zoning classification, except in the case of shared facilities, in which case no side yard setback is required.

(g) All piers, docks, mooring buoys, floats, or other such structures shall not, during the course of the normal fluctuations of the elevation of the water body, protrude more than five feet above the surface of the water.

(h) Floats cannot rest on the tidal substrate at any time. Stoppers on the piling anchoring the floats or stub piling must be installed such that the bottom of the flotation device is at least one foot above the level of the substrate.

(i) Any pier, dock, mooring buoy, or float must be constructed out of materials that will not adversely affect water quality. Use of chemically treated wood is prohibited in fresh water lake shorelines. Use of creosote treated wood is prohibited in marine shorelines.

(j) Any new pier or dock must be located generally perpendicular to the shoreline, and oriented to minimize shading impacts to the maximum degree feasible.

(k) Live-aboard vessels are prohibited except temporary habitation on a vessel is permitted only in a cabin under the hull and only provided that such habitation shall not create a public health hazard or nuisance and this habitation shall not exceed 14 days within any six-month period.
Moorage not associated with residential development may not extend greater than one 24-hour period without a lease from the Washington Department of Natural Resources.

(l) Pier and dock dimensions and grating, marine shorelines.

(i) Where authorized by this chapter, piers and docks located on marine shorelines shall be the minimum size required to provide for moorage. Single-family piers or docks shall not exceed 75 feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 100 feet in length if demonstrated to be necessary to provide adequate moorage. Docks that cannot meet this standard may request a review under the variance provisions of this program.

(ii) The maximum width of each pier or dock shall be six feet.

(iii) The maximum width of walkway ramps shall be four feet and shall be fully grated.

(iv) The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(v) Pier skirting is not permitted.

(m) Pier and dock dimensions and grating, lake shorelines.

(i) The maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average length of the piers or docks on lots abutting the location of the new dock as measured perpendicularly from the ordinary high water mark unless an alternative dimension is required in order to prevent impacts to critical areas. In no circumstances shall the maximum waterward intrusion of any portion of any pier or dock extend more than 36 feet from the ordinary high water mark, or the point where the water depth is eight feet below the elevation of the ordinary high water mark, whichever is reached first.

(ii) The maximum width of each pier or dock shall be six feet, or up to eight feet wide on joint-use docks where additional mitigation is provided.
(iii) The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(n) Floats are limited under the following conditions:

(i) One float per single-family residence and no more than one common use float for each new multifamily development, short subdivision, or subdivision is permitted.

(ii) No portion of a float shall be placed more than 45 feet waterward of the ordinary high water mark on lake shorelines.

(iii) Retrieval lines shall not float at or near the surface of the water.

(iv) No float shall have more than 100 square feet of surface area.

(v) Floats shall use grating on at least 30 percent of their surface to allow light penetration.

(3) Boating facilities – launching ramps, rails, and lift stations.

(a) Launching ramps, rails, and lift stations may be permitted in parks and public access areas in the shoreline residential and urban conservancy environments subject to a shoreline conditional use permit, where authorized by FWRC 15.05.070 through 15.05.090. The following conditions shall apply:

(i) No portion of a launching ramp, rail, or lift station shall be placed more than 60 feet waterward of the ordinary high water mark.

(ii) All portions of a launching ramp, rail, or lift station shall be placed at a depth not to exceed eight feet below the ordinary high water mark.

(iii) Launching rails or ramps shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps, which solidly cover the bottom or bed of a water body, are prohibited.

(iv) No more than one launching ramp, rail, or lift station per shoreline development shall be permitted.
(v) Launching ramps, rails, or lift stations shall not be permitted for shoreline developments that have an existing pier, dock, float, mooring buoy, or other functional moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for shoreline developments that have existing launching ramps, rails, or lift stations.

(vi) Launching ramps, rails, and lift stations shall be sited and designed to ensure protection of navigation routes and access; shall be aesthetically compatible with or enhance existing shoreline features; and shall be clearly marked and separated from nearby swimming areas.

(vii) On-shore facilities associated with public boating facilities shall provide adequate off-street parking and loading area, and have adequate facilities for handling of sewage and litter.

(4) Breakwaters, jetties and groins.

(a) Floating breakwaters are permitted in the shoreline residential and urban conservancy environments, with a conditional use permit, when the following conditions apply:

   (i) Floating breakwaters may be allowed if necessary to protect a public boat launch, when no other alternative with less impact to the environment is feasible.

   (ii) When permitted, development of floating breakwaters shall include mitigation measures consistent with this chapter as to ensure no net loss of ecological function.

   (iii) Nonfloating breakwaters are prohibited.

(b) Jetties are prohibited within all shoreline environments in the city.

(c) Groins are prohibited in all shoreline environments in the city.

(5) Dredging and filling.

(a) Dredging.

   (i) Dredging activities in shoreline residential or urban conservancy environments require a conditional use permit. Dredging is not permitted in the natural environment.
(ii) Dredging activities are allowed only where necessary to protect public safety or for shoreline restoration activities.

(iii) Dredging is allowed only where an alternative alignment that would not require dredging is not feasible.

(iv) Where allowed, dredging operations must be scheduled so as to not damage shoreline ecological functions or processes.

(v) Where allowed, dredging operations shall avoid and minimize significant ecological impacts to the greatest extent feasible, and shall be mitigated as required by this chapter.

(vi) Siting and design of new development shall avoid the need for new and maintenance dredging.

(vii) Dredging for fill materials shall be prohibited, except for projects associated with MTCA or CERCLA remediation actions, habitat restoration, or any other significant restoration effort approved by a shoreline conditional use permit. In such instances, placement of dredged fill material must be waterward of the OHWM.

(b) Filling.

(i) Fill activities waterward of the ordinary high water mark shall only be allowed with a shoreline conditional use permit in association with allowed (permitted) water-dependent use developments; public access; clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with the DNR Dredged Material Management Program; or expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible). Fill waterward of the ordinary high water mark associated with non-water-dependent uses shall be prohibited.

(ii) Fill waterward of the ordinary high water mark needed to support the following water-dependent uses may be allowed through a conditional use permit in the shoreline residential and urban conservancy environments:

(A) Public access;
(B) Expansion, alteration, or repair of transportation facilities currently located within the shoreline;

(C) Mitigation actions;

(D) Environmental, ecological, or watershed restoration projects;

(E) Beach nourishment or enhancement projects; and

(F) Soft-shore bank stabilization projects.

(iii) Permitted fill activities must comply with the following standards:

(A) Demonstration that alternatives to fill are not feasible;

(B) Demonstration that fill shall be deposited so as to minimize disruption of normal surface and groundwater passage;

(C) Demonstration that fill materials shall be of such quality that they will not adversely affect water quality;

(D) Demonstration that fill shall allow surface water penetration into the groundwater supply, where such conditions existed prior to the fill; and

(E) Demonstration that fill timing will minimize damage to water quality and aquatic life.

(iv) Fill, except for beach nourishment, shall be prohibited in areas of high shoreline erosion potential.

(v) Fill located waterward of the ordinary high water mark that results in a net loss of shoreline function is prohibited.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.060 Environmental designations.

(1) Purpose and establishment of designations.
(a) The purpose of the designations is to differentiate between areas whose geographical, hydrological, topographical, or other features imply differing objectives regarding their use and future development.

Each environment designation represents a particular emphasis in the type of uses and the extent of development that should occur within it. The environmental designation system is designed to encourage uses in each environment that enhance or are compatible with the character of the environment, while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not adversely impacted.

(b) *Names of environment designations.* In order to accomplish the purpose of this title, environmental designations have been established as follows:

(i) Shoreline residential.

(ii) Urban conservancy.

(iii) Natural.

(c) *Limits of environment designations.* Each environment designation shall consist of:

(i) The entire water body within city jurisdiction, including all water below the surface, the land below the water body, the space above the water body, and the shorelands associated with the water body. On the city’s marine shoreline, environment designations shall extend waterward from the ordinary high water mark to the line of extreme low tide.

(ii) The shoreline areas within 200 feet of the ordinary high water mark and additional upland areas where associated wetlands and floodplains extend beyond 200 feet from the ordinary high water mark.

(d) *Establishment of designations.*

(i) The written descriptions of the boundaries of the shoreline environment designations as adopted by ordinance shall constitute the official legal descriptions of the boundaries of those environment designations.
(ii) The official maps prepared by the city pursuant to Chapter 173-26 WAC shall constitute the official descriptions of the limits of all shorelands in the city of Federal Way as defined by RCW 90.58.030 and FWRC 15.05.030.

(iii) The department may, from time to time, as new or improved information becomes available, modify the official maps described in subsection (1)(d)(ii) of this section consistent with state guidelines to more accurately represent, clarify, or interpret the true limits of the shorelines defined herein.

(e) Location of boundaries.

(i) Boundaries indicated as following streets, highways, roads, and bridges shall be deemed to follow the centerline of such facilities unless otherwise specified.

(ii) Boundaries indicated as following railroad lines and transmission lines shall be deemed to follow the centerline of such rights-of-way or easements unless otherwise specified.

(iii) Where different environmental designations have been given to a tributary and the main stream at the point of confluence, the environmental designation given to the main stream shall extend for a distance of 200 feet up the tributary.

(iv) In case of uncertainty as to a wetland or environment boundary, the director of community development services shall determine its exact location pursuant to the criteria of WAC 173-22-040 and RCW 90.58.030, and the provisions of this title.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.070 Summary of uses, approval criteria, and process.

(1) Uses not addressed in the program shall be conditional uses.

(2) Specific regulations for each use/development are provided in subsequent sections for shoreline residential (FWRC 15.05.080), urban conservancy (FWRC 15.05.090), and natural (FWRC 15.05.100) environments. All permitted and conditional uses may not appear in the permitted use table (subsection (5) of this section). In cases where uses are not listed, or conflicts exist with other section(s) of the program, the text provisions shall control.

(3) Prohibited uses.
(a) The following uses are prohibited in all shoreline environments:

(i) Commercial agriculture.

(ii) Aquaculture.

(iii) Forest practices.

(iv) Industrial uses.

(v) Mining.

(vi) Floating homes.

(vii) Floating on-water residences are prohibited unless the owner or primary occupant has held an ownership interest in space in a marina or has held a lease or sub-lease to use space in a marina since a date prior to July 1, 2014.

(viii) Live-aboard vessels except as allowed by FWRC 15.05.050(2)(k).

(b) Additional uses are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(4) Prohibited shoreline modifications.

(a) The following shoreline modifications are prohibited in all shoreline environments:

(i) Jetties.

(ii) Groins.

(b) Additional shoreline modifications are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(5) Permitted use table. The following table summarizes the permitted, conditional, and prohibited uses for each shoreline environment:

<table>
<thead>
<tr>
<th>Shoreline Modification</th>
<th>Shoreline Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Conservancy</td>
</tr>
<tr>
<td></td>
<td>Natural</td>
</tr>
<tr>
<td>Shoreline Environment</td>
<td>Residential</td>
</tr>
<tr>
<td>-----------------------</td>
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</tr>
<tr>
<td>Shoreline Stabilization¹</td>
<td>P</td>
</tr>
<tr>
<td>Piers and Docks</td>
<td>P/C³</td>
</tr>
<tr>
<td>Mooring Buoys and Floats</td>
<td>P</td>
</tr>
<tr>
<td>Boating Facilities</td>
<td>C</td>
</tr>
<tr>
<td>Floating Breakwaters</td>
<td>C</td>
</tr>
<tr>
<td>Dredging and Filling</td>
<td>P/C⁵</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Shoreline Use</th>
<th>Shoreline Residential</th>
<th>Urban Conservancy</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office and Commercial Development</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Recreational Development</td>
<td>P</td>
<td>P</td>
<td>P/X⁹</td>
</tr>
<tr>
<td>Residential Development</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>Accessory Structures</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>Utilities</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>Transportation/Parking Facilities</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
</tbody>
</table>

P = Allowed as exempt from permitting or permitted with substantial development permit

C = May be allowed with shoreline conditional use permit

X = Prohibited

---------------

1. Includes bulkheads, bio-engineered erosion control projects, and other shoreline stabilization activities.

2. Soft-shore stabilization is permitted and hard armoring (e.g., bulkheads, riprap) is subject to a shoreline conditional use permit.
3. Public piers and docks are allowed with a CUP.

4. Floating breakwaters are allowed with a shoreline conditional use permit, and only when used to protect a public boat launch. Nonfloating breakwaters are prohibited.

5. Dredging and all fill waterward of the OHWM requires a conditional use permit.

6. Solid waste transfer stations and cellular towers are prohibited in all shoreline environments.

7. Parking as a primary use is prohibited in all shoreline environments, but allowed if serving an allowed shoreline use.

8. Multifamily residential development is prohibited within the natural environment.

9. Non-water-oriented recreational development is prohibited in the natural environment.

(6) Standards table. The following table summarizes siting, design, and dimensional standards of this program, as specified within FWRC 15.05.040, 15.05.050, 15.05.080, 15.05.090, and 15.05.100 for general shoreline regulations, shoreline modifications, and shoreline uses:

<table>
<thead>
<tr>
<th>Shoreline Environment</th>
<th>Shoreline Residential</th>
<th>Urban Conservancy</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General standards for all development and uses</strong></td>
<td>(further detailed by specific use regulations below)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Height**:
  - Shoreline Residential: 35 feet
  - Urban Conservancy: 35 feet
  - Natural: 35 feet

- **Shoreline setbacks**: 2
  - Shoreline Residential: 50 feet from OHWM or as required for protection of critical areas, whichever is greater
  - Urban Conservancy: 50 feet from OHWM or as required for protection of critical areas, whichever is greater
  - Natural: 100 feet from OHWM or as required for protection of critical areas, whichever is greater

- **Vegetation conservation area**: 2
  - Shoreline Residential: Conserve 70% (minimum) of native vegetation and 70% (minimum) of native trees in setback
  - Urban Conservancy: Conserve 85% (minimum) of native vegetation and 80% (minimum) of native trees in setback
  - Natural: Conserve 100% of native vegetation and 100% of native trees in setback
<table>
<thead>
<tr>
<th>Shoreline Environment</th>
<th></th>
<th>Urban Conservancy</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shoreline Residential</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office and commercial development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoreline setbacks</td>
<td>N/A (Prohibited)</td>
<td>75 feet from OHWM or as required for protection of critical areas, whichever is greater</td>
<td>N/A (Prohibited)</td>
</tr>
<tr>
<td>Associated overwater structures</td>
<td></td>
<td>Prohibited, unless providing public access</td>
<td></td>
</tr>
<tr>
<td><strong>Residential development</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoreline setbacks</td>
<td>Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater; Multifamily: 75 feet from OHWM or as required for protection of critical areas, whichever is greater</td>
<td>Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater (no multifamily zoning in this environment)</td>
<td>Single-family only, subject to CUP: 100 feet from OHWM or as required for protection of critical areas, whichever is greater</td>
</tr>
<tr>
<td>Density</td>
<td>Subject to underlying zoning (typically 7,000 to 10,000 sq. ft. minimum lot size; limited areas of multifamily residential zoning, 1,800 sq. ft. minimum lot size)</td>
<td>Subject to underlying zoning (7,000 to 10,000 sq. ft. minimum lot size)</td>
<td>Subject to underlying zoning (5-acre minimum lot size)</td>
</tr>
<tr>
<td>Residential accessory structures within the required shoreline setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height</td>
<td>8 feet</td>
<td>8 feet</td>
<td>8 feet</td>
</tr>
<tr>
<td>Maximum footprint</td>
<td>150 sf per structure; 300 sf total per lot</td>
<td>150 sf per structure; 300 sf total per lot</td>
<td>150 sf per structure; 300 sf total per lot</td>
</tr>
</tbody>
</table>

**Shoreline Modifications**
<table>
<thead>
<tr>
<th>Shoreline Residential</th>
<th>Urban Conservancy</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreline stabilization (FWRC 15.05.050(1))</td>
<td></td>
<td>N/A (Prohibited)</td>
</tr>
</tbody>
</table>

**Design requirements**
- Nonstructural alternatives prioritized
- Creation of new land prohibited
- Located at or landward of ordinary high water
- Marine: creosote prohibited
- Fresh water: chemically treated wood prohibited
- Revegetation with native plants required
- Maximum height is 1 foot above elevation of ordinary high water (lakes) and minimum necessary to protect the upland structure(s) or development proposal(s) along tidal waters.
  Minimum necessary bulkhead height requirements must be supported by both recorded tidal events and geotechnical documentation by a qualified professional.

<table>
<thead>
<tr>
<th>Piers, docks, mooring buoys, and floats (FWRC 15.05.050(2))</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Side yard setbacks</strong></td>
<td>Consistent w/underlying zoning, except none when joint use</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>Above water surface level: 5 feet</td>
<td></td>
</tr>
</tbody>
</table>
| **Siting and design requirements** | - Dwelling units prohibited on piers and docks  
- Covered overwater structures prohibited  
- Piers and docks oriented perpendicular to the shoreline  
- Piers and docks: must be constructed from materials that allow light penetration through the structure  
- Marine: creosote prohibited  
- Fresh water: chemically treated wood prohibited  
- Public dock moorage limited to recreational uses  
- 1 dock per existing residential lot  
- 1 shared dock per new multifamily development, subdivision, | N/A (Prohibited) |
<table>
<thead>
<tr>
<th>Shoreline Environment</th>
<th>Shoreline Residential</th>
<th>Urban Conservancy</th>
<th>Natural</th>
</tr>
</thead>
<tbody>
<tr>
<td>or short subdivision (additional limitations on number of moorage spaces)</td>
<td>• 1 float per existing residence/1 shared dock per new multifamily development/subdivision/short subdivision</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Pier and dock dimensions, lake shorelines**: • Residential piers and docks: maximum waterward intrusion: based on length of nearest existing docks on either side of the proposed dock; never to exceed 36 feet from OHWM or length at 8 feet of depth below OHWM, whichever is reached first • 6-foot maximum dock width (8-foot for joint use)

- **Pier and dock dimensions, marine shorelines**: • Maximum waterward intrusion from OHWM 75 – 100 feet depending on use • 6-foot maximum dock width • Minimum 45% transparency of decking

- **Float dimensions and standards**: • Maximum waterward intrusion: 45 feet from OHWM on lakes • Maximum surface area: 100 sq. ft. • Use of grating on at least 30% of surface area

**Boating facilities: launching ramps, rails, and lift stations (FWRC 15.05.050(3))**

- **Dimensions and standards**: • No more than 60 feet waterward from OHWM • No more than 8 feet below OHWM • No more than 1 ramp per shoreline development • Shall not be allowed for developments with existing pier, dock, float, or other functional moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for developments with existing launch facilities.

1. Maximum heights may be increased pursuant to the shoreline environment-specific regulations of this program (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).
2. Please refer to the shoreline environment-specific regulations of this program for additional detail related to residential setbacks, including exceptions or modifications to the standard minimum setback (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).

3. See Shoreline Vegetation Conservation Standards under FWRC 15.05.075

4. Grass-grid pavers count towards 50% of the maximum footprint requirement.

5. See additional review and approval criteria and design requirements in FWRC 15.05.050(1).

15.05.075 Shoreline vegetation conservation standards.

(1) Purpose. Vegetation conservation provide a means to conserve, protect, and restore shoreline vegetation in order to provide for ecological and habitat functions, as well as human health and safety. Vegetation conservation areas shall consist of a non-clearing area established to protect the integrity, functions, and values of the affected critical area or shoreline, but may also be modified and reduced to accommodate allowed uses when consistent with the Act and this program. The following standards apply in addition to the standards set forth in (6) Standards table above

(2) Tree removal and retention.

(a) Trees determined by the city to be hazardous or diseased may be removed.

(b) Tree Retention Standards in the Shoreline Setback – The Director or designee may require site plan alterations to retain trees in the shoreline setback according to FWRC 19.120.130(2), Tree Unit Credits Table. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements, or utilities. The applicant shall be encouraged to retain viable trees in other areas on site.

(c) The Director may require:

(i) A site plan showing the approximate location of existing trees, their size (diameter breast height) and their species, along with the location of existing structures, driveways, access ways, and easements, and the proposed improvements, or

(ii) An arborist report stating the size (diameter breast height), species, and assessment of health of all existing trees located within the shoreline setback. This requirement may be waived by the director or
designee if it is determined that proposed development activity will not potentially impact existing trees within the shoreline setback.

(d) The Director may approve an alternative replacement option if an applicant can demonstrate that:

(i) It is not feasible to plant all of the required mitigation trees in the shoreline setback of the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted, or

(ii) The required tree replacement will obstruct existing views to the regulated shorelines, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the city to determine whether the tree replacement will obstruct existing views to the regulated shorelines, or

(iii) The alternate replacement option is equal to or superior to the provisions of this section in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes by replacing diseased, nuisance, or fallen trees at a ratio of 2:1, or

(iv) The alternative plan is consistent with the standards provided in this subsection, and the director or designee approves the plan or imposes conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

(3) Responsibility for Regular Maintenance. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under this section. Plants that die must be replaced in kind or with similar plants contained on the King County Native Plant List, or other native or shoreline appropriate species approved by the director or designee.

(a) All required vegetation must be maintained throughout the life of the development.

(b) Plantings shall occur in the late fall or early spring to ensure a higher survival rate and shall address the plant installation and maintenance requirements set forth in FWRC 19.120.220, Revegetation and 19.120.240, Performance assurance. Performance and maintenance standards of a minimum two-year maintenance bond may be required. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.
15.05.080 Shoreline residential environment.

(1) *Purpose.* The purpose of the “shoreline residential” environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) *Designation criteria.* Designation criteria for the shoreline residential environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less.

   (i) This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention, erosion control, and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark, or other designated minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (3)(e) of this section.

(e) Vegetation conservation area. The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 30 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 70 percent of existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements.
(f) Impact mitigation. All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(g) Collection facilities to control and separate contaminants shall be required where stormwater runoff from impervious surfaces would degrade or add to the pollution of recipient waters of adjacent properties.

(h) All development in the shoreline residential area must comply with applicable regulations identified within the general development standards, shoreline modifications, and all other applicable sections of this chapter.

(4) Shoreline modifications.

(a) Allowed modifications to the shoreline within shoreline residential designated areas include the following:

   (i) Shoreline stabilization. Allowed within the shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

   (ii) Piers and docks. Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

   (iii) Mooring buoys and floats. Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

   (iv) Boating facilities – launching ramps, rails, and lift stations. Permitted with a conditional use permit in parks and public access areas within the residential environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

   (v) Breakwaters. Floating breakwaters are allowed within the shoreline residential areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

   (vi) Dredging and filling. Allowed within shoreline residential designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).
(b) Prohibited modifications to the shoreline within shoreline residential designated areas include the following:

(i) Jetties and groins.

(5) Shoreline uses.

(a) Allowed uses within shoreline residential designated areas include the following:

(i) Residential development. Single-family residential use shall be a priority use in the shoreline environment. Single-family and multiple-family residential development, accessory dwelling units, and home occupations may be permitted in the shoreline residential environment subject to the following:

(A) The proposed use is permitted in the underlying zone classification.

(B) Residential development is prohibited waterward of the ordinary high water mark.

(C) Setbacks.

(I) Single-family residential development on marine shorelines shall maintain a minimum shoreline setback of 50 feet from the ordinary high water mark. Single-family residential development on lake and marine shorelines shall maintain a minimum setback behind the stringline setback or 50 feet from the ordinary high water mark, whichever is greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 50 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 50-foot minimum setback may be modified pursuant to the following exception:

(a) If single-family residential development is proposed on a lot where properties on at least one side of the lot are developed in single-family residences located less than 50 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residences (using the stringline
setback method as defined in FWRC 15.05.030), but shall in no case be closer than 30 feet from the ordinary high water mark.

(II) Multifamily residential development on marine shorelines shall maintain a minimum setback of 75 feet from the ordinary high water mark. Multifamily residential development on lake shorelines shall maintain a minimum setback behind the stringline setback or 75 feet from the ordinary high water mark, whichever is greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 75 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 75-foot minimum setback may be modified pursuant to the following exception:

(a) If multifamily residential development is proposed on a lot where properties on at least one side of the lot are developed in multifamily residential uses located less than 75 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residential uses (using the stringline setback method as defined in FWRC 15.05.030) but shall be no closer than 50 feet from the ordinary high water mark.

(D) Public access. In review of all shoreline permits or developments of more than four residential lots or dwelling units, or subdivision of land into more than four lots, consideration of public access shall be required consistent with FWRC 15.05.040(7).

(E) Where allowed consistent with underlying zoning, subdivision of land shall be configured through the orientation of lots to:

(I) Prevent the loss of ecological functions at full build-out by providing adequate developable space outside of setbacks; and

(II) Avoid the need for new shoreline stabilization and flood hazard reduction measures.
(ii) **Accessory structures.** Residential accessory structures may be placed within the required shoreline setback, provided:

(A) No accessory structure shall cover more than 150 square feet.

(B) No more than 300 square feet of accessory structures shall be allowed.

(C) No accessory structure shall exceed eight feet in height.

(D) Existing native shoreline vegetation within the shoreline setback is conserved as per general requirements in subsections (3)(d) and (e) of this section.

(iii) **Recreational development.** Recreational development may be permitted in the shoreline residential environment subject to the general requirements of this chapter, provided:

(A) The recreational development is permitted in the underlying zone.

(B) The facilities are located, designed, and operated in a manner consistent with the purpose of the residential environment.

(C) Recreational development that provides public access to and use of the water shall be given priority.

(D) Recreational development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of ecological functions.

(E) Swimming areas shall be separated from boat launch areas.

(F) Boat launching facilities may be developed, subject to a shoreline conditional use permit, provided:

(I) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed facility.

(II) The facility will not be located on a beach area or cause net loss in shoreline function.
(G) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(H) Public pedestrian and bicycle pathways shall be permitted adjacent to water bodies. Such trails and pathways must be made of pervious materials, if feasible.

(I) Public contact with unique and fragile areas shall be permitted where it is possible without destroying the natural character of the area.

(J) Water viewing, nature study, recording, and viewing shall be accommodated by space, platforms, benches, or shelter consistent with public safety and security.

(iv) **Utilities.** Utility facilities, with the exception of cellular towers, solid waste transfer stations, and production and processing facilities, may be permitted in the shoreline residential environment subject to the requirements of this chapter, provided:

(A) No other practicable alternative location outside of the shoreline jurisdiction with less impact to the environment is available for the facility.

(B) Utility and transmission facilities shall:

   (I) Avoid disturbance of unique and fragile areas.

   (II) Avoid disturbance of wildlife spawning, nesting, and rearing areas.

   (III) Conserve native shoreline vegetation, particularly forested areas, to the maximum extent possible.

   (IV) Avoid overhead utility facilities in public parks, monuments, scenic, recreation, or historic areas.

   (V) Minimize visual impact.

   (VI) Harmonize with or enhance the surroundings.

   (VII) Not create a need for shoreline protection.

   (VIII) Utilize to the greatest extent possible natural screening.
(IX) Mitigate for unavoidable impacts to achieve no net loss of shoreline ecological functions.

(X) Be located in existing utility and transportation rights-of-way whenever feasible.

(C) The construction and maintenance of utility facilities shall be done in such a way so as to:

(I) Maximize the preservation of natural beauty and the conservation of resources.

(II) Minimize scarring of the landscape.

(III) Minimize siltation and erosion.

(IV) Protect trees, shrubs, grasses, natural features, and topsoil.

(V) Avoid disruption of critical aquatic and wildlife stages.

(D) Rehabilitation of areas disturbed by the construction and/or maintenance of utility facilities shall:

(I) Be accomplished as rapidly as possible to minimize soil erosion and to maintain plant and wildlife habitats.

(II) Utilize native trees and shrubs.

(v) Transportation and parking facilities. Transportation and parking, except parking facilities associated with detached single-family development, shall conform to the following minimum requirements:

(A) Transportation corridors shall be developed consistent with the transportation element of the Federal Way comprehensive plan (FWCP) and designed to provide the best service with the least possible impact on shoreline ecological function. Impacts to functions shall be mitigated to achieve no net loss of ecological functions.
(B) New road construction shall be the minimum necessary to serve a permitted shoreline use.

(C) New public transportation facilities shall provide turnout areas for scenic stops where feasible.

(D) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

(E) New surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction if possible, or set back from the ordinary high water mark far enough to make protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade unnecessary.

(F) Maintenance, repair, replacement, or other roadway improvements (including but not limited to widening to serve existing or projected volumes, installation of curb and gutter, sidewalks, illumination, signals) to existing surface transportation facilities shall be allowed within shoreline residential designated areas. Improvements that create a need for protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade shall not be permitted unless no alternative exists and impacts to shoreline ecological functions are mitigated.

(G) Any new development or expansion of existing development creating greater than six total parking stalls must meet the water quality standards required by the King County surface water manual for “high use” sites and “resource stream protection.”

(H) Outdoor parking area perimeter, excluding entrances and exits, must be maintained as a planting area with a minimum width of five feet.

(I) One live tree with a minimum height of four feet shall be required for each 30 linear feet of planting area.
(II) One live shrub of one-gallon container size, or larger, for each 60 linear inches of planting area shall be required.

(III) Additional perimeter and interior landscaping of parking areas may be required, at the discretion of the director, when it is necessary to screen parking areas or when large parking areas are proposed.

(I) Parking as a primary use in shoreline jurisdiction shall be prohibited.

(J) Parking in the shoreline jurisdiction shall directly serve a permitted shoreline use and environmental and visual impacts shall be minimized.

(K) Transportation and parking facilities for subdivision, multifamily residential, and commercial uses shall incorporate low impact development (LID) designs to minimize stormwater runoff.

(L) Transportation facilities shall not adversely impact existing or planned water-dependent uses.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3), the following uses are prohibited uses within shoreline residential designated areas:

(i) Office and commercial development.

(Ord. No. 11-705, § 5(Exh. B), 11-1-11.)

15.05.090 Urban conservancy environment.

(1) Purpose. The purpose of the “urban conservancy” environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. Priority should be given to water-oriented uses over non-water-oriented uses in the urban conservancy environment. Residential development and appurtenant structures should be accommodated in the urban conservancy environment when consistent with existing land use and zoning, and when consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) Designation criteria. Designation criteria for the urban conservancy environment are provided in the city’s shoreline master program.
(3) General requirements.

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) Setbacks. Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark or other designated minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (3)(e) of this section.

(e) Vegetation conservation area. The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 15 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 80 percent of existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements.

(f) Impact mitigation. All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(4) Shoreline modifications.

(a) Allowed modifications to the shoreline within urban conservancy designated areas include the following:
(i) **Shoreline stabilization.** Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

(ii) **Piers and docks.** Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iii) **Mooring buoys and floats.** Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iv) **Boating facilities – launching ramps, rails, and lift stations.** Permitted with a shoreline conditional use permit in parks and public access areas within the urban conservancy environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

(v) **Breakwaters.** Floating breakwaters are allowed within the urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

(vi) **Dredging and filling.** Allowed within urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).

(b) Prohibited modifications to the shoreline within urban conservancy designated areas include the following:

(i) Jetties and groins.

(5) **Shoreline uses.**

(a) Allowed uses within urban conservancy designated areas include the following:

(i) **Residential development.** Allowed within urban conservancy designated areas under the requirements imposed within FWRC 15.05.080(5)(a)(i), with the following additional restrictions:

(A) **Setbacks.** Residential development on marine shorelines shall maintain a minimum setback of 50 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC
15.05.040(4), whichever is greater. Residential development on lake shorelines shall maintain a setback behind the stringline setback, or 50 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Exceptions to minimum setback requirements included in FWRC 15.05.080(5)(a)(i)(C), for both single-family and multifamily development, shall apply.

(B) **Accessory structures.** Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(ii).

(ii) **Recreational development.** Recreational development may be permitted in the urban conservancy environment subject to the general requirements of this chapter and under the requirements imposed by FWRC 15.05.080(5)(a)(iii).

(iii) **Utilities.** Allowed within urban conservancy designated areas under the requirements and restrictions imposed by FWRC 15.05.080(5)(a)(iv).

(iv) **Transportation and parking facilities.** Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(v).

(v) **Office and commercial development.** Office and commercial development may be allowed with conditional use approval in the urban conservancy environment subject to the requirements of this chapter, provided:

(A) The office or commercial use or activity is permitted in the underlying zoning classification.

(B) Public access is provided consistent with the requirements of FWRC 15.05.040(7).

(C) Non-water-oriented office and commercial uses are prohibited uses unless they meet one or more of the following criteria:

(I) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access and/or ecological restoration; or navigability is severely limited at the proposed site.
In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right-of-way.

Office and commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.

Office and commercial development on marine shorelines shall maintain a setback of 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Office and commercial development on lake shorelines shall maintain a setback behind the stringline setback, or 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. The minimum setback may be reduced using the stringline method, when applicable, but in no case shall the minimum setback be less than 50 feet from the ordinary high water mark.

Piers, docks, moorages, buoys, floats, and launching facilities will not be permitted in conjunction with office or commercial development; unless they are developed as part of on-site public access to the shoreline.

Additional water quality standard must be met as per FWRC 15.05.040(3).

15.05.100 Natural environment.

(1) Purpose. The purpose of the “natural environment” 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 ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, the city shall plan for restoration of degraded shorelines within this environment.

(2) Designation criteria. Designation criteria for the natural environment are provided in the city’s shoreline master program.
(3) General requirements.

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) Setbacks. Development shall maintain a minimum shoreline setback of the first 100 feet of property landward from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is the greater setback, as a vegetation conservation area subject to provisions referenced in subsection (3)(e) of this section.

(e) Vegetation conservation area. The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no native shoreline vegetation shall be cleared, and all existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements.

(f) Impact mitigation. All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(4) Shoreline modifications. The following shoreline modifications are prohibited within the natural designated shoreline areas:

(a) Shoreline stabilization;

(b) Piers, docks, moorages, buoys, and floats;
(c) Boating facilities – launching ramp, rails, and lift stations;

(d) Breakwaters, jetties, and groins; and

(e) Dredging and filling.

(5) Shoreline uses.

(a) Allowed uses within natural designated areas include:

(i) Residential development. Multifamily residential uses are prohibited in the natural environment. Single-family residential development and residential accessory structures may be permitted in the natural environment with a shoreline conditional use permit with the following additional restrictions:

   (A) Allowed only where single-family residential development is permitted in the underlying zone classification.

   (B) Single-family residential development is prohibited waterward of the ordinary high water mark.

(ii) Recreational development. Allowed within the natural designated areas subject to the limitations of subsection (4) of this section and provided:

   (A) The recreational development is permitted in the underlying zone.

   (B) Non-water-oriented recreational uses and development are prohibited within the natural designated areas.

   (C) The recreational development is located, designed, and operated in a manner consistent with the purpose of the natural environment with a focus on passive recreation.

   (D) Recreational development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of shoreline ecological functions.
(E) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed development.

(F) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(G) Public pedestrian and bicycle pathways shall be made of pervious materials.

(iii) **Utilities.** Allowed within the natural designated areas with a shoreline conditional use permit under the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(iv).

(iv) **Transportation and parking facilities.** Allowed in the natural environment only when necessary to serve an allowed use and subject to the approval of a conditional use permit. Approved facilities must, at a minimum, meet the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(v).

(v) **Low intensity public uses.** Low intensity public uses including scientific, historical, cultural, and educational research uses are allowed under the general requirements for the natural environment (subsection (3) of this section); and provided, that ecological impacts are avoided.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3), the following uses are prohibited uses within natural designated areas:

(i) Boating facilities;

(ii) Multifamily residential development;

(iii) Office and commercial development.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

**Article III. Administrative Procedures**

15.05.110 Shoreline management permit and enforcement procedures, adoption by reference.
The city of Federal Way hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code ("WAC"), entitled Shoreline Management Permit and Enforcement Procedures.

WAC:

(1) 173-27-020, Purpose.

(2) 173-27-040, Developments exempt from substantial development permit requirement.

(3) 173-27-044, Developments not required to obtain shoreline permits or local reviews.

(4) 173-27-125, 90-day review target for WSDOT projects.

(5) 173-27-130, Filing with department.

(6) 173-27-270, Order to cease and desist.

(7) 173-27-280, Civil penalty.

(8) 173-27-290, Appeal of civil penalty.

(9) 173-27-300, Criminal penalty.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.120 Permit processing and public notice.

An application for a shoreline development permit shall be made to the department of community development on forms prescribed by the department. Public notice shall be provided as follows:

(1) An application for a substantial development permit requires public notice as prescribed in Process III, Chapter 19.65 FWRC.

(2) An application for a shoreline conditional use permit or shoreline variance requires public notice as prescribed in Process IV, Chapter 19.70 FWRC.

(3) The application for shoreline exemption, substantial development permit, conditional use permit, and/or variance permit applies to the most current SMP, effective 14 calendar days after Ecology’s approval letter containing written notice of final action.
15.05.130 Shoreline exemption.

(1) The purpose of a shoreline exemption is to provide an approval process for uses and activities which do not trigger the need for a substantial development permit, but require compliance with the shoreline guidelines and the goals, policies, and other provisions of the city’s shoreline master program. A use or activity that qualifies for an exemption may require a shoreline variance (FWRC 15.05.160), or a shoreline conditional use permit (FWRC 15.05.170). An exemption from the substantial development permit process is not an exemption from compliance with any other applicable regulatory requirements.

(2) To qualify for an exemption, the proposed use, activity, or development must meet the requirements for an exemption as described in WAC 173-27-040.

(3) If the proposed development meets the requirements for an exemption, the applicant shall submit a request for an exemption to the director of community development services for review and approval. The request shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development. The city shall review the request and provide a summary of the analysis demonstrating consistency of the project with the Federal Way shoreline master program and the Shoreline Management Act. The city shall prepare a statement of exemption, provided the proposal meets exemption criteria. The burden of proof that a development or use is exempt from the permit process is on the applicant. If any part of the development is not eligible for exemption, then a substantial development permit is required for the entire proposed development.

(a) The director may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and the Federal Way shoreline master program, per WAC 173-27-040(e). For example, in the case of development subject to a building permit, but exempt from the shoreline permit process, the building official or other permit authorizing official, through consultation with the director, may attach shoreline management terms and conditions to building permits and other permit approvals pursuant to RCW 90.58.140.

(b) Where shoreline development proposals are subject to review, approval, and permitting by a federal or state agency, the director shall prepare a statement of exemption, addressed to the applicant, the federal or state permitting agency, and Ecology.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
15.05.140 Application requirements.

*Complete application.* A complete application for a substantial development, shoreline conditional use, or shoreline 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, at a minimum, include the property address, parcel number, and identification of the section, township, and range to the nearest quarter, 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 longitude and latitude location.

(5) Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the Act over the project is derived.

(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 and 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, photographs, and text, which shall include:

   (a) The boundary of the parcel(s) of land upon which the development is proposed.

   (b) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological
basis for the location as indicated on the plans shall be included in the development plan.
Where the ordinary high water mark is neither adjacent to nor within the boundary of the project,
the plan shall indicate the distance and direction to the nearest ordinary high water mark of a
shoreline.

(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 wetland areas that will be altered or used as a part of the development.

(e) A general indication of the character of vegetation found on the site.

(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
drainfields, material stockpiles or surcharge, and stormwater management facilities.

(g) Where applicable, a landscaping plan for the project.

(h) Where applicable, plans for development of areas on- or off-site as mitigation for impacts
associated with the proposed project shall be included and contain information consistent with
the requirements of this section.

(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.

(n) Summary of how the proposal meets relevant decisional criteria.

(o) Additional information as requested by the city.

(10) Where applicable, a shoreline assessment and mitigation report prepared by a qualified professional which, at a minimum, includes the following:

(a) Site plan and cross-sections of development and critical areas and critical salmonid habitat identified.

(b) A detailed description of proposed development.

(c) Identification of any species of local importance, priority species, or endangered, threatened, or sensitive species that have documented or observed habitat on or adjacent to the project area.

(d) An assessment of potential impacts the proposal may have on fish and wildlife species, critical areas, and critical salmonid habitats.

(e) A discussion of any federal, state, or local management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to project area. See FWRC 19.142.060 for floodplain development permit requirements.

(f) A discussion of mitigation measures that have been implemented to avoid and minimize adverse impacts to fish and wildlife species and habitats, critical areas, and critical salmonid habitat. The mitigation must also include a mitigation plan showing the area of mitigation and detailed mitigation measures, such as habitat features and planting of native vegetation.

(g) A discussion of monitoring, maintenance, and contingency measures to accompany the mitigation plan.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
15.05.150 Shoreline substantial development permit.

(1) The purpose of a substantial development permit is to provide an approval process for any development with a total cost or fair market value exceeding the dollar figure set in RCW 90.58.030(3)(e), or any development which materially interferes with the normal public use of the water or shorelines of the state, except those exempted developments set forth in the preceding section, consistent with WAC 173-27-040. Under current law, the substantial development dollar threshold will be recalculated every five years by the Washington State Office of Financial Management (OFM). OFM posts updated dollar thresholds in the Washington State Register.

(2) When a substantial development permit is requested, the permit shall be reviewed under the provisions of Process III, Chapter 19.65 FWRC, and the director of community development shall be the final approval authority for the city of Federal Way.

(3) A substantial development permit shall be granted by the director only when the development proposed is consistent with the following:

   (a) Goals, objectives, policies, and use regulations of the Federal Way shoreline master program;

   (b) Federal Way comprehensive plan and city code; and

   (c) The policies, guidelines, and regulations of the Shoreline Management Act (Chapter 90.58 RCW and Chapters 173-26 and 173-27 WAC).

(4) The director may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.160 Shoreline variance.

(1) The purpose of a shoreline variance is to grant relief to specific bulk, dimensional, or performance standards set forth in the shoreline master program, where there is an extraordinary or unique circumstance relating to the property such that the strict implementation of the shoreline master program would impose unnecessary hardship on the applicant or thwart the policies of the Shoreline Management Act.

(2) When a variance is requested, the substantial development permit, if required, and the variance, shall be reviewed under the provisions of Process IV, Chapter 19.70 FWRC, and the hearing examiner shall be the final
approval authority for the city of Federal Way. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

(3) A variance from the standards of the master program may be granted only when the applicant can demonstrate that all the following conditions will apply:

(a) That the strict requirements of the bulk, dimensional, or performance standards set forth in the master program preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the master program;

(b) That the hardship described above is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features, and the application of the master program, and not, for example, from deed restriction or the applicant’s own actions;

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties, and will be the minimum necessary to afford relief;

(e) That the public interest will suffer no substantial detrimental effect;

(f) That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance when the proposal is for development located waterward of the ordinary high water mark, or within wetlands, estuaries, marshes, bogs, or swamps; and

(g) That consideration has been given to the cumulative effect of like actions in an area where similar circumstances exist, and whether this cumulative effect would be consistent with shoreline policies or would have substantial adverse effects on the shoreline.

(4) Shoreline variances may not be used to permit a use that is specifically prohibited in an environment, or to vary uses permitted within an environmental designation.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.170 Conditional uses.

(1) The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of the shoreline master program in a manner which will be consistent with the policies of
Chapter 90.58 RCW, particularly where denial of the application would thwart the policies of the Shoreline Management Act.

(2) When a conditional use is requested, the substantial development permit, if required, and the conditional use, shall be reviewed under the provisions of Process IV, Chapter 19.70 FWRC, and the hearing examiner shall be the final approval authority for the city of Federal Way. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

(3) Conditional uses have unique and special characteristics which require a special degree of control to make the uses compatible with other existing or permitted uses in the same environment, and to assure that the use is in the public interest. In authorizing a conditional use permit, special conditions may be attached to the permit by the hearing examiner to prevent undesirable effects or mitigate environmental impacts of the proposed use.

(4) Conditional use permits shall be authorized only when they are consistent with the following criteria:

(a) The proposed use is consistent with the policies of RCW 90.58.020 and the policies of the shoreline master program;

(b) The use will not interfere with normal use of public shorelines;

(c) The use will cause no unreasonable adverse effects on the shoreline or surrounding properties or uses, and is compatible with other permitted uses in the area;

(d) The public interest will suffer no substantial detrimental effect;

(e) Consideration has been given to cumulative impact of additional requests for like actions in the area.

(5) Other uses not set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements, or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by the master program may not be authorized.

(Ord. No. 11-705, § 5 (Exh. B), 11-11.)
15.05.180 Final approval of shoreline permits.

(1) The director of community development shall notify and forward to the following agencies or persons within five days of the final approval of a shoreline permit and any shoreline variances or conditional uses granted:

   (a) The applicant;

   (b) The state Department of Ecology;

   (c) Any person who has submitted written comments on the application; and

   (d) Any person who has requested notification in writing prior to final approval of the permit.

(2) No work may commence on a site requiring a shoreline substantial development, shoreline variance, or shoreline conditional use permit until 21 calendar days following the “date of filing” or until all review proceedings before the shoreline hearings board have terminated.

   (a) “Date of filing” for a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.

   (b) “Date of filing” for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the city and the applicant/proponent.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.190 Combined hearing authority.

In those cases when development proposed in the shorelines may require a public hearing under the authority of other chapters of this Code, the hearings may be combined.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.200 Appeals.

All appeals of any final permit decision are governed by the procedures established in RCW 90.58.140(6) and 90.58.180, and Chapter 481-03 WAC, the rules and procedures of the shoreline hearings board. All appeals of any final permit decision must be made to the shoreline hearings board within 21 days of the date of filing of the city’s final decision concerning the substantial development permit, or formal approval to revisions of the permit.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
15.05.210 Permit revisions.

(1) A permit revision is required whenever an applicant proposes substantive changes to the design, terms, or conditions of a project from that which was approved in the permit. When a revision of a shoreline permit is sought, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with the minimum standards pursuant to WAC 173-27-100.

(2) If the proposed changes are determined by the director to be within the scope and intent of the original permit, and are consistent with the Shoreline Management Act (Chapter 90.58 RCW), the guidelines in Chapter 173-26 WAC, and the Federal Way shoreline master program, the revision shall be approved.

(3) A new permit shall be required if the proposed revision would constitute development that is beyond the scope and intent of the original approval. “Within the scope and intent of the original approval” means all of the following:

(a) No additional overwater construction is involved except that a pier, dock, or floating structure may be increased by 10 percent over that approved under the original approval; provided, that the revision does not exceed the maximum size requirements of this chapter except as authorized under a variance granted for the original development;

(b) Ground area coverage and/or height may be increased a maximum of 10 percent over that approved under the original approval; provided, that the revised approval does not authorize development to exceed the height, impervious surface, setback, or any other requirements of this chapter except as authorized under a variance granted for the original development;

(c) Additional or revised landscaping is consistent with any conditions attached to the original approval and with the Federal Way shoreline master program;

(d) The use authorized pursuant to the original approval is not changed; and

(e) The revision will not cause adverse environmental impacts beyond those originally authorized in the approval.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.220 Replacement, alteration, or reconstruction of nonconforming use or development.
(1) Applications for substantial development or building permits to modify a nonconforming use or development, as defined in this chapter, may be approved only if:

(a) The modifications will make the use or development less nonconforming; or

(b) The modifications will not make the use or development more nonconforming; and

(c) Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers, or yards; area; bulk; height; or density may be maintained 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.

(d) Minor repairs to non-conforming structures under the monetary threshold listed in FWRC 15.05.150 can apply for a shoreline exemption.

(2) An existing use or development, not conforming to existing regulations, which is destroyed may be replaced (per “replacement structure” as defined in this chapter) as it existed prior to destruction, provided application for required permits is made within one year of destruction.

(3) If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

(4) An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or the Federal Way shoreline master program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the FWRC and so long as such development conforms to all other requirements of the Federal Way shoreline master program and the Act.

(5) An existing mechanical improvement, not conforming to existing regulations, which breaks and cannot be repaired may be replaced, provided the replacement is no more nonconforming and application for required permits is made within one year of failure.

(6) Existing, legally established residential structures, not including bulkheads, that do not meet current dimensional or bulk standards, but are otherwise conforming, are classified as conforming. Redevelopment, expansion, and replacement is allowed so long as it is consistent with Chapter 15.05, Shoreline Management.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
15.05.230 Shoreline environment redesignation.

Shoreline environments designated by the master program may be redesignated by the city council upon finding that such redesignation will be consistent with:

(1) The policies of Section 2 of the Shoreline Management Act of 1971.

(2) The goals, objectives, and policies of the shoreline master program.

(3) The designation criteria of the shoreline environment designation requested.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)

15.05.240 Amendments to this chapter.

Amendments to this chapter shall be pursuant to state review and approval as per WAC 173-26-110 and 173-26-120.

(Ord. No. 11-705, § 5 (Exh. B), 11-1-11.)
Chapter 19.145
ENVIRONMENTALLY CRITICAL AREAS

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Article VI. Frequently Flooded Areas

19.145.520  Frequently flooded areas.
Article I. Administrative

19.145.010 Purpose.

The purpose of this chapter is to protect the environment, human life, and property from harm and degradation. This is to be achieved by precluding or limiting development in areas where development poses serious or special hazards; by preserving and protecting the quality of drinking water; and by preserving important ecological areas such as steep slopes, streams, lakes and wetlands. The public purposes to be achieved by this chapter include protection of water quality, groundwater recharge, stream flow maintenance, stability of slope areas, wildlife and fisheries habitat maintenance, protection of human life and property and maintenance of natural stormwater storage and filter systems.


19.145.015 Administration.

Except as otherwise established in this chapter, if a proposed development activity requires city approval, this chapter will be implemented and enforced as part of that process.

(Ord. No. 15-797, § 18, 6-16-15.)


The provisions of this division apply throughout the city and must be complied with regardless of any other conflicting provisions of this title. The provisions of this title that do not conflict with the provisions of this division apply to the subject property.


19.145.030 Jurisdiction.

(1) The city shall regulate all uses, activities, and development within critical areas and the corresponding buffers and setbacks.

(2) Critical areas regulated by the city include the following areas and their corresponding buffers:

(a) Geologically hazardous areas;

(b) Fish and wildlife habitat conservation areas;
(c) Wetlands;

(d) Critical aquifer recharge areas; and

(e) Frequently flooded areas.


19.145.040 Relationship to other regulations.

(1) Nothing in this chapter in any way limits, or may be construed to limit, the authority of the city under any other applicable law, nor in any way decreases the responsibility of the applicant to comply with all other applicable local, state and federal laws and regulations.

(2) These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.

(3) When any provision of this title or any existing regulation, easement, covenant, or deed restriction conflicts with regulations in this chapter, the regulations that provide greater protection to the critical areas shall apply.

(4) Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements, apart from the process established in this chapter.


19.145.050 Liability.

(1) The city is not liable for any damage resulting from development activities within critical areas. Prior to issuance of any building permit or other permit by the building official, use process, or subdivision approval, the applicant may be required to enter into an agreement with the city, in a form acceptable to the city attorney, releasing and indemnifying the city from and for any damage or liability resulting from any development activity on the subject property that is related to the physical condition of the critical area. This agreement shall be recorded with the King County recorder’s office at the applicant’s expense and shall run with the property.
The city may also require the applicant to obtain insurance coverage for damage to city or private property and/or city liability related to any such development activity.


19.145.060 Unauthorized alterations and enforcement.

(1) When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner’s or violator’s expense to compensate for violation of provisions of this chapter.

(2) **Restoration plan.** All development work shall remain stopped until a restoration plan is prepared at the expense of the owner or violator and approved by the city. The plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsections (2)(a) and (b) of this section. The director may, at the owner or violator’s expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the owner or violator for revision and resubmittal.

   (a) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area:

   (i) The historic structural and functional values shall be restored, including water quality and habitat functions;

   (ii) The historic soil types and configuration shall be replicated;

   (iii) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

   (iv) Information demonstrating compliance with FWRC 19.145.140 (Mitigation plan requirements) shall be submitted to the director.
(b) For alterations to frequently flooded areas and geologically hazardous areas, the following minimum performance standards shall be met for the restoration of critical area:

(i) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

(ii) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

(iii) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

(3) Minimum performance standards identified in subsections (2)(a) and (b) of this section may be modified if the owner or violator can demonstrate that greater functional and habitat values can be obtained.

(4) Site investigations. Site investigations necessary to enforce this chapter are authorized pursuant to FWRC 7.03.070.

(5) Penalties. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and be subject to provisions of Chapter 7.03 FWRC.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.070 Maps and inventories.

(1) Critical areas maps and inventories generally designate the location of critical areas within the city and are adopted by reference.

(2) Area-wide inventories and documents identifying critical areas may not identify all critical areas designated under this chapter. The provisions of this chapter will apply to all designated critical areas located within the city, including those critical areas not identified on a map or inventory. Whenever there is evidence of a critical area located within or in proximity to a nonexempt action, the director may require a critical area report to determine the extent to which such critical area may exist.

(3) Critical area maps and inventories are to be used for planning level purposes only and the actual presence/absence, type, extent, and boundaries of critical areas shall be identified in the field by a qualified professional according to the procedures and criteria established in this chapter. In the event of any conflict
between the critical area location and designation shown on the city’s map and the criteria or standards of this chapter, the criteria and standards shall prevail.

(4) The following maps and inventories, as amended, are used for identifying possible critical areas and their buffers:

   (a) Federal Way critical areas map;

   (b) Washington State Department of Health Source Water map;

   (c) Federal Way final wetland inventory report prepared by Sheldon and Associates, Inc., July 19, 1999;

   (d) Preliminary stream inventory, Federal Way gap analysis, November 29, 2001;

   (e) Washington State Department of Fish and Wildlife priority habitat and species maps; and

   (f) Additional state and federal maps and inventories may be used if necessary.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.080 Critical area report.

(1) Unless waived or modified by the director in accordance with subsection (4) of this section, an applicant proposing activities where impacts or alteration of a critical area or its associated buffer and/or setback shall submit a critical areas report that adequately evaluates the proposal and probable impacts.

(2) The critical area report shall be prepared by a qualified professional, incorporate best available science, and include the following items:

   (a) The name and contact information of the applicant, a description of the proposal, and identification of the type of approval (use process, subdivision, building permit) requested;

   (b) Vicinity map;

   (c) The dates, names, and qualifications of the persons preparing the report and documentation of any reconnaissance on site;

   (d) A scaled site plan depicting critical areas, buffers, setbacks, and proposed improvements;
(e) Photographs of the site and critical areas;

(f) Identification and characterization of all critical areas adjacent to the proposed improvements;

(g) A description of efforts made to apply mitigation sequencing pursuant to FWRC 19.145.130 to avoid, minimize, and mitigate impacts to critical areas;

(h) A copy of the Joint Aquatic Resource Permit Application (JARPA) if applicable;

(i) Additional information required for the individual critical area; and

(j) Any additional information determined by the director to adequately review the proposed activity.

(3) Critical area reports may be reviewed by the city’s third party consultant at the applicant’s expense.

(4) The critical area report may be waived or modified if the director determines:

(a) There will be no alteration of the critical area or buffer; or

(b) The applicant cannot obtain permission to access off-site critical areas or buffers.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.090 Reasonable use of the subject property.

(1) The provisions of this section establish a mechanism whereby the provisions of this chapter may be modified or waived on a case-by-case basis if their implementation would deprive an applicant of all reasonable use of the subject property.

(2) An applicant may apply for a modification or waiver of the provisions of this chapter using process IV; except, that applications for projects on single-family residential lots may use process III.

(3) The city may approve a modification or waiver of the requirements of this chapter on a case-by-case basis based on the following criteria:

(a) The application of the provisions of this chapter eliminates all reasonable use of the subject property;
(b) No feasible and reasonable on-site alternatives to the proposal are possible, such as changes to site layout and/or reduction of impervious improvements;

(c) It is solely the implementation of this chapter, and not other factors, that preclude all reasonable use of the subject property;

(d) The applicant has in no way created or exacerbated the condition that forms the limitation on the use of the subject property, nor in any way contributed to such limitation; and

(e) The waiver or modification will not lead to, create nor significantly increase the risk of injury or death to any person or damage to improvements on or off the subject property.

(4) If the city grants a request under this section, it shall grant the minimum necessary to provide the applicant with some reasonable use of the subject property, considering the factors described in subsections (3)(a) through (e) of this section. Any approval or waiver of requirements shall result in the minimum possible impacts to the function and values and/or risks associated with proposed improvements on affected critical areas. The city may impose limitations, mitigation under an approved mitigation plan, conditions and/or restrictions it considers appropriate to reduce or eliminate any undesirable effects or adverse impacts of granting a request under this section.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.100 Bonds.

The city may require a bond under Chapter 19.25 FWRC to ensure compliance with any aspect of this chapter.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.110 Exemptions.

The following activities and developments are exempt from the provisions of this chapter. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. An exemption from this chapter is not an endorsement to degrade a critical area; ignore risk from natural hazards; or otherwise limit the ability of the director to identify and abate such actions that may cause degradation to a critical area.

(1) Activities and development in response to emergencies that, in the opinion of the director, threaten public health, safety or welfare; or that pose an immediate risk of damage to property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for
review by the department, such emergency action may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. The director will determine what, if any, mitigation shall be required to protect health, safety, welfare, and environment and to repair any resource damage.

(2) Operation, maintenance, or repair of existing public improvements, utilities, public or private roads, parks, trails, or drainage systems if the activity does not further alter or increase impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair, and no new clearing of native vegetation beyond routine pruning.

(3) Development involving or near 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 wetlands, streams, or swales created as mitigation or that provide habitat for salmonids.

(4) Normal maintenance and repair, reconstruction or remodeling, and additions to existing structures that do not increase the previously approved building footprint.

(5) Development within the footprint of existing paved surfaces that were previously approved.

(6) Recreation, education, and scientific research activities that do not require grading or placement of structures.

(7) Removal by hand of invasive and noxious vegetation. Removal by hand does not include using mechanical equipment or the use of herbicides.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.120 Partial exemptions.

The following activities are partial exemptions to the provisions of this chapter and require written approval from the director:

(1) Essential public facilities, public utilities and other public improvements. The director may permit the placement of an essential public facility, public utility or other public improvements in a critical area if no practical alternative with less impact on the critical area(s) exists. The specific location and extent of the intrusion into the critical area must constitute the minimum necessary encroachment to meet the requirements of the public facility or utility and not pose an unreasonable threat to the health, safety, or welfare on or off the
subject property. The intrusion shall attempt to protect and mitigate impacts to the critical area function and values. The “public utility and other public improvements” shall not include improvements whose primary purpose is to benefit a private development, including without limitation interior roads or privately owned detention facilities installed within or during the construction of a residential subdivision, binding site plan, or other commercial development. The director may require supporting documentation to demonstrate compliance with partial exemptions.

(2) Site reconnaissance necessary for preparing land use or building permit applications. Any disturbance of the critical area shall be the minimum necessary to conduct the site reconnaissance and the area shall be restored to its previous condition immediately.

(3) Normal maintenance and continuation of existing landscaping and gardens that were legally established prior to city incorporation. This partial exemption shall be documented by photographs, statements, and/or other evidence provided by the applicant.

(4) Demolition of structures. The applicant shall submit a temporary erosion and sedimentation control plan and apply for applicable demolition permit(s).

(5) Restoration and enhancement that does not alter the location, dimensions, or size of the critical area or buffer and does not reduce the existing quality or functions of the critical area or buffer. The applicant shall submit a restoration and/or enhancement plan prepared by a qualified professional or as determined by the director.

(6) Removal of invasive and noxious vegetation with mechanized equipment and/or with the use of herbicides.

(7) Vegetation maintenance such as hazard tree removal, removal of nuisance vegetation, and limited pruning for view preservation. The applicant shall submit a vegetation maintenance plan prepared by a certified arborist or registered landscape architect that includes the following:

(a) A site plan at appropriate scale denoting the extent of the proposed vegetation maintenance activity;

(b) Tree and vegetation location, type, and caliper of each tree within the area subject to the proposed vegetation maintenance activity;

(c) Identification of methods of vegetation maintenance (limited to hand tools and hand powered tools); and
(d) Proposed tree and/or vegetation replacement shown on the site plan.
(Ord. No. 15-797, § 22, 6-16-15.)

19.145.130 Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and
minimize impacts to critical areas. When alteration to a critical area is proposed, such alteration shall be
avoided, minimized, or compensated in the following order of preference:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using
appropriate technology or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or
reduce impacts;

(3) Rectifying the impact to the critical area by repairing, rehabilitating, or restoring the affected environment to
the conditions existing at the time of the initiation of the project;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of
the action;

(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
and

(6) Monitoring the hazard or other required mitigation and taking remedial action when necessary.
(Ord. No. 15-797, § 22, 6-16-15.)

19.145.140 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city a mitigation plan as a component
of the critical area report. The mitigation plan shall include the following as determined to be applicable by the
director:

(1) **Existing conditions and proposed impacts.** A description of existing critical area and/or buffer conditions,
functions, and values and a description of the anticipated impacts;

(2) **Proposed mitigation.** A description of the proposed mitigation actions and mitigation site selection criteria;
(3) **Environmental goals and objectives.** A description of the goals and objectives of proposed mitigation. The goals and objectives shall be related to the function and values of the impacted critical area and provide an analysis of the likelihood of success of the compensation project;

(4) **Best available science.** A review of the best available science supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed;

(5) **Performance standards.** A description of specific measurable criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether the requirements of this chapter have been met;

(6) **Timing.** Mitigation shall be completed concurrently with project construction, unless a phased schedule that assures completion has been approved by the director;

(7) **Detailed construction plans.** Detailed site diagrams, scaled cross-sectional drawings, topographic maps with slope percentage and final grade elevations, and any other drawing appropriate to show construction techniques or anticipated final outcome. The plans shall include specifications and descriptions of the following:

   (a) Proposed construction sequence, timing, and duration;

   (b) Grading and excavation details;

   (c) Erosion and sediment control features;

   (d) Planting plan specifying plant species, quantities, locations, size, spacing, and density; and

   (e) Measures to protect and maintain plants until established;

(8) **Monitoring program.** The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, success, problems, and contingency actions of the compensation project. The monitoring period shall be five years. The director may require a greater or lesser monitoring period depending on the overall scope of mitigation;
(9) **Contingency plan.** The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met; and

(10) **Financial guarantees.** The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Chapter 19.25 FWRC. (Ord. No. 15-797, § 22, 6-16-15.)

**19.145.150 Critical area tracts and designation on site plans.**

(1) Critical area tracts shall be used to delineate and protect critical areas and buffers for subdivision, short subdivision, or binding site plan proposals. The tracts shall also be recorded on all documents of title of record for the affected lots. The following critical areas are subject to this section:

   (a) All landslide hazard areas and buffers, except those subdivisions utilizing lot size averaging methods pursuant to FWRC 19.120.110;

   (b) All wetlands and buffers; and

   (c) All fish and wildlife habitat conservation areas and buffers.

(2) Critical area tracts shall be designated on the plat. A plat note shall include the following restriction:

   Native preservation shall be preserved for the purpose of preventing harm to property and the environment, including but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat. Removal or disturbance vegetation and landscaping within the tract is prohibited, except as necessary for maintenance or replacement with approval by the City of Federal Way.

(3) The city may require that any required critical area tract be dedicated to the city; held in an undivided interest by each property owner within the development with the ownership interest passing with the ownership of the lot; or held by an incorporated homeowners’ association or other legal entity that ensures the ownership, maintenance, and protection of the tract.
(4) Site plans submitted as part of development proposals use processes I through V and building permits shall include and delineate all critical areas with their associated buffers and building setbacks. Site plans shall be attached to the notice on title required by FWRC 19.145.170.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.160 Building setbacks.

Unless otherwise provided, structures shall be set back a distance of five feet from the edges of a critical area buffer. The following may be allowed in the building setback area:

(1) Landscaping;

(2) Building overhangs; and

(3) Fences and railings six feet and less in height.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.170 Notice on title.

The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the city with the King County recorder’s office. The required contents and form of the notice shall be determined by the director. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on the property, and that limitations on actions in or affecting such critical areas or buffers may exist. The notice shall run with the land.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.180 Critical area markers, signs, and fences.

(1) Markers. Permanent survey stakes delineating the boundary between adjoining property and critical area tracts shall be set, using markers capable of being magnetically located and as established by current survey standards.

(2) Signs. Development proposals approved by the city shall require that the boundary between a critical area buffer and contiguous land shall be identified with permanent signs. Permanent signs shall be a city-approved type designed for high durability. Signs must be posted at an interval of one per lot or every 150 feet, whichever is less, and must be maintained by the property owner or homeowners’ association in perpetuity. The wording, number and placement of the signs may be modified by the director based on specific site conditions.
(3) **Fencing.** Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances:

(a) As part of any development proposal for:
   (i) Plats;
   (ii) Short plats;
   (iii) Parks;
   (iv) Other development proposals, including but not limited to multifamily, mixed use, and commercial development where the director determines that such fencing is necessary to protect the functions of the critical area;

(b) When buffer reductions are employed as part of a development proposal;

(c) When buffer averaging is employed as part of a development proposal; and

(d) At the director’s discretion to protect the values and functions of a critical area.

(Ord. No. 15-797, § 22, 6-16-15.)

**19.145.190 Physical barriers.**

The applicant shall install a berm, curb, or other physical barrier during construction to prevent direct runoff and erosion from any disturbed area onto or into a critical area. If necessary, the applicant shall install a berm, curb, or other physical barrier following completion of development of the subject property to prevent direct runoff and erosion from any disturbed area onto or into a critical area.

(Ord. No. 15-797, § 22, 6-16-15.)

**19.145.200 Time limitation.**

The city may limit development activities that involve any clearing and grading to specific months of the year and to a maximum number of continuous days or hours in order to minimize adverse impacts.

(Ord. No. 15-797, § 22, 6-16-15.)

**19.145.210 Other requirements.**

The city may require other construction techniques, conditions, and restrictions on development in order to minimize adverse impacts on critical areas.

(Ord. No. 15-797, § 22, 6-16-15.)
Article II. Geologically Hazardous Areas

19.145.220 Applicability and designation.

(1) This article regulates development activities on or within 50 feet of a geologically hazardous area.

(2) Geologically hazardous areas include areas susceptible to erosion, land sliding, seismic, or other geological events. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

   (a) Landslide hazard;

   (b) Erosion hazard; and

   (c) Seismic hazard.

(3) The director may permit development activities on or within 50 feet of a geologically hazardous area if the development will not be at risk of damage due to the geologic hazard and will not lead to or create any increased slide, seismic or erosion hazard.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.230 Landslide hazard areas protection measures.

(1) Landslide hazard areas shall have a standard buffer of 50 feet.

(2) Landslide hazard area buffers shall be measured from the top and toe, and along the sides of the slope.

(3) The width of the buffer shall reflect the sensitivity of the landslide hazard area and the types and density of uses proposed on or adjacent to the hazard. In determining the appropriate buffer width, the director shall consider the recommendations contained in the critical areas report.

(4) Buffers and setbacks may be reduced or improvements may be located in a landslide hazard area when a qualified professional demonstrates to the director’s satisfaction that the improvements will not lead to or create any increased slide hazard or be at risk of damage by the landslide hazard.

(5) The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing improvements.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.240 Erosion and seismic hazard areas protection measures.

(1) Erosion hazard areas and seismic hazard areas do not contain standard buffers.

(2) All proposed improvements within an erosion hazard area or seismic hazard area shall follow the recommendations within the critical area report to ensure the improvements will not adversely affect geologic hazards and the improvements are at minimal risk by the geologic hazard as stated by a geotechnical engineer or engineering geologist licensed in the state, as designed under anticipated conditions.

(3) Proposed improvements within an erosion hazard area shall also demonstrate all of the following via the critical area report:

   (a) The improvement will not increase surface water discharge or sedimentation to adjacent properties and/or stormwater systems beyond predevelopment conditions;

   (b) The improvement will not decrease slope stability on adjacent properties; and

   (c) The improvement will not adversely impact other critical areas.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.250 Additional report requirements – Geologically hazardous areas.

(1) Before approving any development under this article, the city may require the applicant to submit the following information in addition to the critical areas report:

   (a) A geotechnical report prepared by a geotechnical engineer or engineering geologist licensed in the state that describes how the proposed development will impact or be impacted by each of the following on the subject property and nearby properties:

      (i) Slope stability, landslide hazard, and sloughing;

      (ii) Seismic hazards;

      (iii) Groundwater;

      (iv) Seeps, springs and other surface waters; and

      (v) Existing vegetation.
(b) A site plan, in two-foot contours, that identifies the type and extent of geologically hazardous areas on site and off site that are likely to impact or be impacted by the proposal.

(c) Recommended foundation design and optimal location for roadway improvements.

(d) Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.

(e) Any other information the city determines is reasonably necessary to evaluate the proposal.

(2) If the city approves any development under this section, it may, among other appropriate conditions, impose the following conditions of approval:

(a) The recommendations of the geotechnical report are followed;

(b) A geotechnical engineer or engineering geologist be present on site during all development activities. As an alternative, the city may require minimal site visits by the geotechnical engineer or engineering geologist to establish proper methods, techniques and adherence to plan drawings;

(c) Trees, shrubs and groundcover are retained except where necessary for approved development activities on the subject property;

(d) Additional vegetation is planted in disturbed areas; and

(e) Submit a letter by the geotechnical engineer or engineering geologist stating that they have reviewed the project plan drawings and in their opinion the plans and specifications meet the intent of the geotechnical report.

(Ord. No. 15-797, § 22, 6-16-15.)

Article III. Fish and Wildlife Habitat Conservation Areas


(1) This article regulates development in fish and wildlife habitat conservation areas ("FWHCA") and their associated buffers. FWHCAs in the city include subsections (2) through (6) of this section. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with best available
science, such as the Washington Department of Fish and Wildlife’s Management Recommendations for Priority Habitats and Species.

(2) Streams. Streams shall be classified in accordance with the Washington Department of Natural Resources water typing system (WAC 222-16-030), which is hereby adopted in its entirety by reference and summarized as follows:

(a) Type S: streams inventoried as “shorelines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW;

(b) Type F: streams that contain fish habitat;

(c) Type Np: perennial non-fish habitat streams; and

(d) Type Ns: seasonal non-fish habitat streams.

(3) Regulated lakes. Those lakes that are less than 20 acres in size and not regulated as shorelines of the state.

(4) Areas with state or federally designated endangered, threatened, and sensitive species have a primary association.

(a) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the NOAA Fisheries that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

(b) State-designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State-designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.
(5) **State priority habitats and areas associated with state priority species.** Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State Department of Fish and Wildlife.

(6) **Habitats and species of local importance.** Habitats and species of local importance are those identified by the city of Federal Way, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element where a species has a primary association, and, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(Ord. No. 15-797, § 22, 6-16-15.)

**19.145.270 Stream buffers.**

(1) No development may take place within a stream or within the following buffer areas except as allowed within this chapter. Buffer widths shall be measured outward on a horizontal plane from the ordinary high water mark or top of bank if the ordinary high water mark cannot be identified:

(a) Type F stream – 100 feet.

(b) Type Np stream – 50 feet.

(c) Type Ns stream – 35 feet.

(2) The buffer areas established by this section do not apply to any segment of a stream that is presently within a culvert, unless that stream will be taken out of the culvert as part of development of the subject property.

(3) **Trails.** The director may provide written approval for passive pedestrian recreation facilities designed in accordance with an approved critical area report and the following standards:

(a) Trails are composed of pervious surfaces no more than five feet in width. Raised boardwalks and wildlife viewing structures composed of nontreated pilings may also be considered;

(b) Trails are generally located within the outer 25 percent of the buffer; and
(c) Trails shall avoid the removal of mature trees.

(4) Permanently altered buffer. The director may provide written approval for a buffer reduction when existing conditions are such that portions of the required buffer exist in a permanently altered state (e.g., roadways, paved parking lots, and permanent structures) and do not provide any buffer function. The buffer may be reduced up to the area where the altered conditions exist.

(5) The director may require increased buffer widths that are necessary to protect habitat, health, safety, and welfare on site specific areas as follows:

   (a) When the director determines that the buffer width is insufficient to prevent habitat degradation;

   (b) When a channel migration zone is present. The stream buffer width shall be measured from the outer edge of the channel migration zone; or

   (c) When the stream buffer area is within an erosion or landslide hazard area.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.280 Stream relocation.

(1) Relocation of a stream will be permitted only as part of a public project for which an essential public facility, public utilities, or other public improvements have been granted a partial exemption from the director or if the relocation is associated with compensatory mitigation or restoration project. Any proposed relocation is subject to all of the conditions and restrictions of this section.

(2) As part of any request under this section, the applicant must submit a stream relocation plan with the critical areas report that shows the following:

   (a) The creation of a natural meander pattern;

   (b) The formation of gentle side slopes, at least two feet horizontally to one foot vertically, and the installation of erosion control features for stream side slopes;

   (c) The creation of a narrow sub-channel, where feasible, against the south or west bank;

   (d) The utilization of natural materials, wherever possible;

   (e) The use of vegetation normally associated with streams, including primarily native riparian vegetation;
(f) The creation of spawning and nesting areas, wherever appropriate;

(g) The re-establishment of the fish population, wherever feasible;

(h) The restoration of water flow characteristics compatible with fish habitat areas, wherever feasible;

(i) The filling and revegetation of the prior channel; and

(j) A proposed phasing plan specifying time of year for all project phases.

(3) The city will allow a stream to be relocated only if water quality, habitat and stormwater retention capability of the streams will be the equivalent or improved by the relocation. Convenience to the applicant in order to facilitate general site design shall not be considered.

(4) Prior to diverting water into the new channel, a qualified professional shall inspect the new channel following its completion and issue a written report to the director stating that the channel complies with the requirements of this section.

(5) The amount of flow and velocity of the stream may not be increased or decreased as the stream enters or leaves the subject property.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.290 Streambank stabilization.

(1) Streambank stabilization may not be located in or along a stream except as established in this section.

(2) A request for streambank stabilization in or along the stream will be reviewed and decided upon using process III in Chapter 19.65 FWRC.

(3) A request to install streambank stabilization in or along the stream will only be granted if the naturally occurring movement threatens existing improvements, unique natural resources, or the only feasible access to the subject property.

(4) Streambank stabilization shall be achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.300 Culverts.

(1) Culverts are permitted in streams only if approved under this section. This section applies to culverts not associated with a stream crossing that is regulated under FWRC 19.145.320.

(2) The city will review and decide upon applications under this section using process IV in Chapter 19.70 FWRC. Responses to decisional criteria and design requirements within this section shall be included in the critical areas report.

(3) The city will allow a stream to be put in a culvert only if:

   (a) Mitigation habitat is equivalent or improved from the preexisting condition; and

   (b) It is necessary for some reasonable use of the subject property. Convenience to the applicant in order to facilitate general site design will not be considered. The applicant must demonstrate, by submitting alternative site plans showing the stream in an open condition, that no other reasonable site design exists.

(4) The culvert must be designed and installed consistent with the requirements of the Washington Department of Fish and Wildlife (WDFW, 2013, Water Crossing Design Guidelines, as amended). The culvert must be large enough to accommodate a 100-year storm.

(5) The applicant shall, at all times, keep all culverts on the subject property free of debris so as to allow free passage of water and, if applicable, fish. The city may require a bond under Chapter 19.25 FWRC to ensure maintenance of the culvert approved under this section.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.310 Removal of streams from culverts.

If development of the subject property requires city approval, the city may require the stream to be taken out of the culvert and restored to a natural-like configuration as part of the city’s approval of development of the subject property.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.320 Stream crossings.

(1) Stream crossings will be reviewed and decided upon using process III in Chapter 19.65 FWRC. Responses to decisional criteria and design requirements in this section shall be included in the critical areas report.
(2) The use of existing crossings across streams or buffers is preferred to new crossings. New stream crossings may be allowed and may encroach on the required stream buffer if:

(a) Bridges, stream simulation culverts, or other appropriate methods demonstrated to provide fisheries protection shall be used for stream crossings and the applicant shall demonstrate that such methods and their implementation will pose no harm to the stream habitat or inhibit migration of fish;

(b) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids, if present;

(c) Crossings do not occur over spawning areas used by salmonids unless the city determines that no other possible crossing site exists;

(d) Bridge piers or abutments are not placed within the ordinary high water mark;

(e) Crossings do not diminish the flood-carrying capacity of the stream;

(f) Crossings are consistent with design requirements of the Washington Department of Fish and Wildlife (WDFW, 2013, Water Crossing Design Guidelines, as amended);

(g) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed in the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this chapter;

(h) The number of crossings is minimized and consolidated to serve multiple purposes and properties whenever possible;

(i) Disturbances to the stream buffer are adequately compensated by a stream buffer enhancement plan; and

(j) No reasonable alternative exists to access the subject property.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.330 Intrusion into stream buffers.

(1) A request for an intrusion into a stream buffer will be reviewed and decided upon using process III in Chapter 19.65 FWRC. Responses to decisional criteria and design requirements in this section shall be included in the critical areas report.

(2) Stream buffer intrusions may be permitted with a buffer enhancement plan. The applicant shall demonstrate that the remaining and enhanced reduced buffer will function at an equivalent or higher level than the standard buffer. The plan shall provide an assessment of the following existing functions and conditions of the buffer and the effects of the proposed modification on those functions:

   (a) Habitat;
   
   (b) Water quality;
   
   (c) Stormwater retention capabilities;
   
   (d) Groundwater recharge; and
   
   (e) Erosion protection.

(3) The city may approve a stream buffer intrusion based on the following criteria:

   (a) It will not adversely affect water quality;
   
   (b) It will not adversely affect the existing quality of wildlife habitat within the stream or buffer area;
   
   (c) It will not adversely affect drainage or stormwater retention capabilities;
   
   (d) It will not lead to unstable earth conditions nor create erosion hazards;
   
   (e) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole; and
   
   (f) It is necessary for reasonable development of the subject property.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.340 Requirements for clearing and grading.

Any permitted clearing and grading activities within a stream or stream buffer area shall also comply with following requirements of this section.

(1) Grading is allowed only during the dry season (May 1st to October 1st). The director may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

(2) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

(3) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

(4) Erosion and sediment control that meets requirements of FWRC Title 16.

(5) All fill material used must be nondissolving and nondecomposing. The fill material must not contain organic or inorganic material that would be detrimental to water quality or the existing habitat.

(6) The applicant may deposit dredge spoils on the subject property only if part of an approved development on the subject property.

(7) The applicant shall stabilize all areas left exposed after clearing and grading activities with native vegetation normally associated with the stream or buffer area.

(Ord. No. 15-797, § 22, 6-16-15.)


(1) No development may take place within regulated lakes or within buffer areas from regulated lakes except as allowed in this chapter.

(2) All areas landward 25 feet in every direction from the ordinary high water mark of a regulated lake are within the buffer area from a regulated lake.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.360 Development waterward of the ordinary high water mark of regulated lakes.

This section regulates structures, improvements and activities waterward of the ordinary high water mark of regulated lakes. Responses to decisional criteria and design requirements within this section shall be included in the critical areas report.

(1) *Dredging and filling.* Dredging activities necessary to prevent eutrophication may be authorized by the director with a critical areas report that demonstrates the appropriate need and method of dredging.

(2) *Structures and improvements.* The only structures or improvements that may be located waterward of the ordinary high water mark of a regulated lake are moorage structures. The city will review and decide upon any proposal for a moorage structure waterward of the ordinary high water mark using process III in Chapter 19.65 FWRC. The city may grant a request under this section if the moorage structure is accessory to a dwelling unit or public park on the subject property and no significant habitat area will be damaged by its construction or use. A moorage structure, if permitted, may not extend waterward further than is reasonably necessary to function properly, but in no event more than 200 feet waterward of the ordinary high water mark. Moorage structures may not be treated with creosote, oil base or other toxic substances. The top of the moorage structure may not be more than two feet above the elevation of the ordinary high water mark.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.370 Development within regulated lake buffers.

No development may be located or take place within the buffer area from a regulated lake except as allowed in this section. Responses to decisional criteria and design requirements within this section shall be included in the critical areas report.

(1) *Landscaping and clearing and grading.* Except as otherwise specifically permitted in this section, the buffer area from a regulated lake may not be covered with an impervious surface. Installation and maintenance of normal residential or park-like landscaping may take place within the required buffer area; provided, that no fertilizers, pesticides or other chemicals or substances are applied within the buffer area that will degrade water quality or hasten eutrophication of the lake. Development beyond installation and maintenance of normal residential or park-like landscaping may only be permitted within the buffer area if approved through use process III in Chapter 19.65 FWRC based on the following criteria:

   (a) The proposed development is necessary for the reasonable use of the subject property.

   (b) The proposed development will not increase or decrease the size of the regulated lake.
(c) The proposed development will not change the points where any water enters or leaves the subject property nor in any way change drainage patterns to or from adjacent properties.

(d) The proposed development will not be detrimental to water quality or habitats in or around the lake.

(2) Minor structures and improvements. Minor improvements such as walkways, benches, platforms for storage of boats and storage lockers for paddles, oars, life preservers and similar boating equipment may be located within the buffer area if approved through use process I in Chapter 19.55 FWRC based on the following criteria:

(a) The minor improvement will not adversely affect water quality.

(b) The minor improvement will not destroy nor damage a significant habitat area.

(c) The minor improvement will not adversely affect drainage or stormwater retention capabilities.

(d) The minor improvement will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole.

(3) Other intrusions.

(a) Where the properties immediately abutting the subject property have dwelling units that extend into the buffer area, the applicant may construct a dwelling unit on the subject property that extends into this buffer area to the extent permitted in subsection (3)(b) of this section.

(b) Where subsection (3)(a) of this section applies, the dwelling unit on the subject property may be no closer to the ordinary high water mark of the regulated lake than the average of the distance of the two dwelling units on the properties immediately abutting the subject property. If one of the properties immediately abutting the subject property does not contain a dwelling unit or the dwelling unit on that abutting property is more than 25 feet from the ordinary high water mark of the regulated lake, the setback of the dwelling unit on that lot will be presumed to be 25 feet for the purposes of calculating the permissible location for the dwelling unit on the subject property under this section.

(4) Revegetation. The applicant shall stabilize all areas left exposed after land surface modification with appropriate vegetation.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.380 Regulated lake bulkheads.

(1) **General.** A bulkhead is permitted within or adjacent to a regulated lake subject to the provisions of this section.

(2) **Required permit.** The city will review and decide upon an application under this section using process III in Chapter 19.65 FWRC. Responses to decisional criteria and design requirements within this section shall be included in the critical areas report.

(3) **Criteria.** The city may permit a bulkhead to be constructed only if:

   - (a) The bulkhead is needed to prevent significant erosion.
   - (b) The use of vegetation or soft stabilization techniques will not sufficiently stabilize the shoreline to prevent the significant erosion.

(4) **Design features.** A bulkhead may not be located between a regulated lake and a wetland. Changes in the horizontal or vertical configuration of the land must be kept to a minimum. The bulkhead must be designed to minimize the transmittal of wave energy to other properties.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.390 Fish protection measures.

(1) All activities, uses, and alterations proposed to be located in water bodies used by fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, the following standards:

   - (a) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife;
   - (b) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
   - (c) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

(2) Structures that prevent the migration of fish shall not be allowed in the portion of water bodies currently or historically used by fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.400 Endangered, threatened, and sensitive species protection measures.

(1) No development shall be allowed within a habitat conservation area or buffer where state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by Washington Department of Fish and Wildlife or applicable state or federal agency.

(2) Whenever activities are proposed adjacent to a habitat conservation area where state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and other appropriate federal or state agencies.

(Ord. No. 15-797, § 22, 6-16-15.)

Article IV. Wetlands

19.145.410 Wetland identification and delineation.

(1) Generally. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria are hereby designated critical areas and are subject to the provisions of this chapter. Wetland delineations are valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary.

(2) Evaluation. If the city determines that a wetland may exist on or within 225 feet of the subject property, the director may require the applicant to submit a wetland report prepared by a qualified professional. The written report and the accompanying plan sheets shall contain the following information:

   (a) Critical area report information identified in FWRC 19.145.080.

   (b) Identification of all local, state, and/or federal wetland related permit(s) required for the proposal.

   (c) Documentation of fieldwork, including field data sheets, rating system forms, and baseline hydrologic data.
(d) Description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses, including references.

(e) Identification and characterization of all wetlands and buffers on and within 225 feet of the subject property. For off-site areas with limited or no access, estimate conditions using best available information.

(f) Provide the following for each wetland identified on and/or within 225 feet of the subject property. Acreage estimates, classifications, and ratings shall be based on entire wetland complexes, not only the portion present on the subject property:

   (i) Wetland rating and score for each function;

   (ii) Required buffers;

   (iii) Hydrogeomorphic classification;

   (iv) Wetland acreage;

   (v) Cowardin classification of vegetation communities;

   (vi) Habitat elements;

   (vii) Soil conditions based on site assessment and/or soil survey information; and

   (viii) To the extent possible, hydrologic information such as location and condition of inlet/outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, and flood debris).

(g) An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.420 Wetland rating and buffers.

(1) Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met:
(a) Category I wetlands represent a unique or rare wetland type; are more sensitive to disturbance than most wetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of function. The following types of wetlands are Category I:

(i) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources;

(ii) Bogs;

(iii) Wetlands with mature and old growth forests larger than one acre; and

(iv) Wetlands that perform functions at high levels (wetlands that score 23 points or more based on functions).

(b) Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. Category II wetlands are those wetlands that score between 20 and 22 points based on functions.

(c) Category III wetlands are wetlands with a moderate level of functions that score between 16 and 19 points based on functions.

(d) Category IV wetlands are wetlands with the lowest level of functions (scoring less than 16 points based on functions) and are often heavily disturbed.

(2) Wetland buffers shall be measured perpendicular from the wetland boundary as delineated and marked in the field. Buffer widths are established as follows in Table 1:

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Buffer Width (wetland scores 3-5 habitat points)</th>
<th>Buffer Width (wetland scores 6-7 habitat points)</th>
<th>Buffer Width (wetland scores 8-9 habitat points)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I: Bogs and wetlands of high conservation value</td>
<td>250 feet</td>
<td>250 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Wetland Category</td>
<td>Buffer Width (wetland scores 3-5 habitat points)</td>
<td>Buffer Width (wetland scores 6-7 habitat points)</td>
<td>Buffer Width (wetland scores 8-9 habitat points)</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Category I:</td>
<td>100 feet</td>
<td>150 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Forested and based on function score</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category II</td>
<td>100 feet</td>
<td>150 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Category III</td>
<td>80 feet</td>
<td>150 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Category IV</td>
<td>50 feet</td>
<td>50 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

(3) No wetland buffer is required for those isolated wetlands 1,000 square feet or less in total area.

(4) All compensatory mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

(5) Lighting shall be directed away from wetland buffers unless otherwise determined by the director.

(6) All lots approved in a recorded subdivision or binding site plan that contain wetlands and their associated buffer in a native growth protection easement or tract may be improved pursuant to easement or tract boundaries established in the plat regardless of subsequent regulatory buffer increases or natural migration.

(7) All wetland and wetland buffer boundaries shown on an approved use process decision and/or building permit shall be honored regardless of subsequent regulatory buffer increases or natural migration.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.430 Development within wetlands.

(1) Generally. No development or improvement may be located within a wetland except as provided in this section.

(2) Development within wetlands. The specific location and extent of development within a wetland must constitute the minimum necessary encroachment as determined through application of mitigation sequencing set forth in FWRC 19.145.130. The city will review and decide upon development within a wetland using process IV in Chapter 19.70 FWRC, based on the following criteria:
(a) It will not adversely affect drainage or stormwater retention capabilities;  

(b) It will not lead to unstable earth conditions nor create erosion hazards;  

(c) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole, including the loss of open space;  

(d) It will result in no net loss of wetland area, function or value upon completion of compensatory mitigation;  

(e) The project is in the best interest of the public health, safety or welfare;  

(f) The applicant has demonstrated sufficient scientific expertise and supervisory capability to carry out the project; and  

(g) The applicant is committed to monitoring the project and to making corrections if the project fails to meet projected goals.  

(3) Requirements for compensatory mitigation. Compensatory mitigation shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1 (Ecology Publication No. 06-06-011b or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication No. 09-06-32).  

(4) Mitigation. Acceptable methods to mitigate wetland impacts include creation, re-establishment, rehabilitation, and enhancement of in-kind wetland types within the same drainage basin that results in no net loss of wetland area, function, or value. If approved by the city, the applicant may locate a portion or all of the compensatory mitigation using alternative mitigation including, but not limited to, an approved and certified in-lieu fee program or mitigation bank, and/or advanced mitigation if it is determined that off-site, out-of-basin, and/or out-of-kind mitigation would provide a greater overall benefit to the watershed and not result in adverse impacts to the city’s stormwater management system and/or wildlife habitat. Alternative mitigation methods are discretionary and may become an option following an operating agreement between the city and mitigation receiving area.  

(a) In-lieu fee. Credits from an in-lieu fee program approved under state and federal rules may be used at the discretion of the city and when all of the following are met:
(i) The city determines that it would provide environmentally appropriate compensation for the proposed impacts;

(ii) The proposed use of credits is consistent with the terms and conditions of the approved in-lieu fee program instrument; and

(iii) The compensatory mitigation agreement occurs in advance of the authorized impacts.

(b) Mitigation bank. Credits from a wetland mitigation bank that is certified under state rules may be used at the discretion of the city and when all of the following are met:

(i) The city determines that it would provide environmentally appropriate compensation for the proposed impacts;

(ii) The proposed use of credits and replacement ratios are consistent with the terms and conditions of the certified bank instrument; and

(iii) The compensatory mitigation agreement occurs in advance of the authorized impacts.

(c) Advance mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts at the discretion of the city and if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.

(5) Wetland mitigation ratios. The following are ratios for providing creation, re-establishment, rehabilitation, or enhancement of impacted wetlands. Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment pursuant to Table 1a, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance –Version 1 (Ecology Publication No. 06-06-011a, or as revised). Creation, re-establishment, rehabilitation, and enhancement definitions and intent shall be pursuant to Ecology Publication No. 06-06-011a, or as revised.

<table>
<thead>
<tr>
<th>Category and Type of Wetland</th>
<th>Creation or Re-establishment</th>
<th>Rehabilitation</th>
<th>Enhancement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I: High conservation value and bogs</td>
<td>Not considered possible</td>
<td>Case-by-case</td>
<td>Case-by-case</td>
</tr>
<tr>
<td>Category I: Mature and old growth forests</td>
<td>6:1</td>
<td>12:1</td>
<td>24:1</td>
</tr>
</tbody>
</table>
Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication No. 10-06-011, or as revised) if approved by the director.

(6) **Compensatory mitigation plan.** As part of any request under this section, the applicant shall submit a mitigation plan prepared by a qualified professional that includes the following minimum standards:

(a) Contents of wetland delineation report identified in FWRC 19.145.410(2).

(b) Compensatory mitigation written report and plan sheets. Full guidance on the following report requirements can be found in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, or as revised):

(i) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands;

(ii) Description of the existing wetland and buffer areas proposed to be altered. Include acreage, water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating;

(iii) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing condition: acreage of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions;
(iv) Description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands;

(v) Description of the proposed mitigation construction activities and timing of activities;

(vi) Discussion of ongoing management practices that will protect wetlands after the subject property has been developed, including proposed monitoring and maintenance programs; and

(vii) Bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency action for a maximum of the total required number of years for monitoring.

(c) Scaled plan sheets for the compensatory mitigation that contains the following contents:

(i) Surveyed edges of the existing wetland and buffer, proposed areas of wetland impacts, location of proposed wetland compensation actions.

(ii) Existing and proposed topography measured at two-foot intervals in the proposed compensation area. Existing and proposed cross sections of the proposed compensation area and impact area measured in one-foot intervals.

(iii) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

(iv) Conditions expected from the proposed actions on site, including hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

(v) Required wetland buffers for existing wetlands and proposed compensation areas.
(vi) Plant schedule for compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

(vii) Performance standards that provide measurable benchmarks reflective of years post-installation for upland and wetland communities, monitoring schedule, and maintenance schedule.

(d) Alternative mitigation plans (in-lieu fee, mitigation banks, and advanced mitigation) shall provide items (6)(a), (b)(i) and (ii) from this section, responses to subsection (4)(a), (b), or (c) of this section, and any other information deemed necessary by the city to adequately consider the alternative mitigation proposal.

(7) Monitoring. Mitigation monitoring shall be required for a minimum of five years to establish that performance standards have been met. The mitigation plan shall include monitoring elements that ensure certainty of success for the proposal’s natural resource values and functions. The applicant remains responsible for restoration of the natural resource values and functions if the mitigation goals are not obtained with the five-year monitoring period. Additional monitoring and corrective actions may be required by the director in order to meet goals within the approved mitigation plan.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.440 Development within wetland buffers.

(1) Generally. Except as allowed in this section, no development or improvement may be located within a wetland buffer.

(2) Trails. The director may provide written approval for passive pedestrian recreation facilities designed in accordance with an approved critical area report and the following standards:

(a) Trails are composed of pervious surfaces no more than five feet in width. Raised boardwalks and wildlife viewing structures composed of non-treated pilings may also be considered;

(b) Trails are generally located parallel to the perimeter of the wetland and within the outer 25 percent of the buffer; and

(c) Trails shall avoid the removal of mature trees.
(3) **Stormwater management facilities.** The director may provide written approval for stormwater management facilities limited to stormwater dispersion outfalls and bioswales within the outer 25 percent of the buffer of category III and IV wetlands if the location of such facilities will not degrade the functions or values of the wetland.

(4) **Permanently altered buffer.** The director may provide written approval for a buffer reduction when existing conditions are such that portions of the required buffer exist in a permanently altered state (e.g., roadways, paved parking lots, and permanent structures) and do not provide any buffer function. The buffer may be reduced up to the area where the altered conditions exist.

(5) **Buffer averaging.** The city will review and decide upon buffer averaging using process III in Chapter 19.65 FWRC, based on the following criteria that shall be added to the critical areas report:

   (a) The total area of the buffer after averaging is equal to the area required without averaging;

   (b) The buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion;

   (c) The buffer at its narrowest point is not reduced to less than 75 percent of the required width; and

   (d) Unless authorized in writing by a consenting neighboring property owner, the averaging will remain on the subject property.

(6) **Buffer reduction with enhancement.** Buffers may be reduced by up to 25 percent on a case-by-case basis if the project includes a buffer enhancement plan that clearly substantiates that an enhanced buffer will improve and provide additional protection of wetland functions and values. Buffer reductions may not be used in combination with buffer averaging. The city will review and decide upon buffer reductions using process III in Chapter 19.65 FWRC, based on the following criteria:

   (a) It will not adversely affect water quality;

   (b) It will not adversely affect the existing quality of the wetland or buffer wildlife habitat;

   (c) It will not adversely affect drainage or stormwater retention capabilities;

   (d) It will not lead to unstable earth conditions nor create erosion hazards;
(e) It will not be materially detrimental to any other property or the city as a whole; and

(f) All exposed areas are stabilized with native vegetation, as appropriate.

A buffer enhancement plan, prepared by a qualified professional, shall be incorporated into the critical area report. The plan shall assess the habitat, water quality, stormwater retention, groundwater recharge, and erosion protection functions of the existing buffer; assess the effects of the proposed modification on those functions; and address the six approval criteria of this section.

(7) Buffer increases. The director shall require increased buffer widths, on a case-by-case basis, when a larger buffer is necessary to protect functions, values or hazards based on site-specific conditions. This determination shall be supported by appropriate documentation showing that additional buffer width is reasonably related to protection of the functions and values of the wetland, and/or protection of public health, safety and welfare. Such determination shall be attached as permit conditions. The determination must include but not be limited to the following criteria:

(a) The wetland contains habitat for species listed as threatened, endangered, candidate, sensitive, monitored, or documented priority species or habitats by state or federal agencies, and additional buffer is necessary to maintain viable functional habitat;

(b) The adjacent land is susceptible to severe erosion, and erosion control measures will not effectively prevent adverse wetland impacts; or

(c) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

(Ord. No. 15-797, § 22, 6-16-15.)

Article V. Critical Aquifer Recharge Areas

19.145.450 Designation.

This article regulates development located within designated capture zones. Six-month, one-year, five-year, and 10-year capture zones are designated as critical aquifer recharge areas under the provisions of the Growth Management Act (Chapter 36.70A RCW) and are established based on proximity to and travel time of groundwater to the city’s public water source wells.

(Ord. No. 15-797, § 22, 6-16-15.)
19.145.460 Classification of capture zones.

As required by WAC 365-196-485(1)(d) (Critical Areas), the city shall protect the quality and quantity of ground water used for public water supplies.

The Lakehaven Utility District ("LUD") has designated four capture zones based on proximity to and travel time of groundwater to Group A and Group B public water supplies

(1) Six-month capture zone represents the land area overlaying the six-month time-of-travel zone of any public water source well owned by LUD.

(2) One-year capture zone represents the land area overlaying the one-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month capture zone.

(3) Five-year capture zone represents the land area overlaying the five-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month and one-year capture zones.

(4) Ten-year capture zone represents the land area overlaying the 10-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month, one-year, and five-year capture zones.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.470 General requirements.

(1) Development that will not cause contaminants to enter the aquifer may be permitted in critical aquifer recharge areas.

(2) The city shall impose development conditions to prevent degradation of critical aquifer recharge areas. Development conditions shall be based on all known, available, and reasonable methods of prevention, control and treatment ("AKART").

(3) The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Ecology, State Department of Health, and Public Health – Seattle and King County.
(4) The proposed activity must be designed and constructed in accordance with the King County Surface Water Design Manual (“KCSWDM”), the Federal Way Addendum to the KCSWDM, and the King County Stormwater Pollution Control Manual (“BMP Manual”), as amended.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.480 Prohibited development in six-month and one-year capture zones.

(1) Development that poses a significant hazard to the city’s groundwater resources resulting from storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances shall be prohibited in six-month and one-year capture zones, except as specified in FWRC 19.30.170. These land uses and activities include, but are not limited to:

(a) On-site community sewage disposal systems as defined in Chapter 248-272 WAC;

(b) Hazardous liquid pipelines as defined in Chapter 81.88 RCW;

(c) Solid waste landfills;

(d) Solid waste transfer stations;

(e) Liquid petroleum refining, reprocessing, and storage;

(f) The storage or distribution of gasoline treated with the additive methyl tertiary butyl ether;

(g) Hazardous waste treatment, storage, and disposal facilities (except those defined under permit by rule for industrial wastewater treatment processes per WAC 173-303-802(5)(c));

(h) Chemical manufacturing, including but not limited to organic and inorganic chemicals, plastics and resins, pharmaceuticals, cleaning compounds, paints and lacquers, and agricultural chemicals;

(i) Dry cleaning establishments using the solvent perchloroethylene;

(j) Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and nonferrous metals from molten materials;

(k) Wood treatment facilities, including wood preserving and wood products preserving;

(l) Mobile fleet fueling operations;
(m) Mining (metal, sand, and gravel); and

(n) Other land uses and activities that the city determines would pose a significant groundwater hazard to the city’s groundwater supply.

(2) The uses listed in subsection (1)(a) through (n) of this section represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, they will be added to the list of uses prohibited within these zones.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.490 Development within critical aquifer recharge areas.

(1) Any proposed development located in critical aquifer recharge areas shall submit a hazardous materials inventory statement with a permit, land use, or business license application. Ongoing operation and maintenance activities of public wells by public water providers are exempt from these requirements.

(2) The city will review the hazardous materials inventory statement along with the permit, land use, or business license application to determine whether hazardous materials will be used, stored, transported or disposed of in connection with the proposed activity. The city shall make the following determinations and apply the appropriate capture zone protection measures:

(a) No hazardous materials are involved;

(b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance; or

(c) Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge areas. The city may require a hydrogeologic assessment with a critical areas report to be prepared by a qualified professional in order to determine the potential impacts of contamination on the aquifer. The report shall include the following site and proposal-related information:

(i) Information regarding geologic and hydrogeologic characteristics of the site, including the surface location of the capture zone in which it is located and the type of infiltration of the site.

(ii) Groundwater depth, flow direction, and gradient.
(iii) Location of other critical areas, including surface waters, within 200 feet of the site.

(iv) Best management practices and integrated pest management proposed to be used, including:

(A) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features;

(B) Predictive evaluation of contaminant transport based on potential releases to groundwater; and

(C) Predictive evaluation of changes in the infiltration/recharge rate.

(3) A spill containment and response plan may be required to identify equipment and/or structures that could fail, and shall include provisions for inspection as required by the applicable state regulations.

(4) A groundwater monitoring plan may be required to monitor quality and quantity of groundwater, surface water runoff, and/or site soils. The city may require the owner of a facility to install one or more groundwater monitoring wells to accommodate the required groundwater monitoring. Criteria used to determine the need for site monitoring shall include, but not be limited to, the proximity of the facility to production or monitoring wells, the type and quantity of hazardous materials on site, and whether or not the hazardous materials are stored in underground vessels.

(5) The city may employ an outside consultant at the applicant’s expense for third-party review of the critical areas report, hydrogeologic assessment, the spill containment and response plan, and the groundwater monitoring plan.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.500 Capture zone protection measures.

(1) Any new or existing use applying for a building permit, land use, or subdivision approval within six-month and one-year capture zones that involves storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances shall comply with the following standards:

(a) Secondary containment.
(i) The owner or operator of any facility or activity shall provide secondary containment for hazardous materials or other deleterious substances in quantities specified in the International Fire Code.

(ii) Hazardous materials stored in tanks that are subject to regulation by the Washington State Department of Ecology under Chapter 173-360 WAC (Underground Storage Tank Regulations) are exempt from the secondary containment requirements of this section; provided, that documentation is provided to demonstrate compliance with those regulations.

(b) Design and construction of new stormwater infiltration systems must address site-specific risks of releases posed by all hazardous materials on site. These risks may be mitigated by physical design means, or equivalent best management practices, in accordance with an approved hazardous materials management plan. Design and construction of said stormwater infiltration systems shall also be in accordance with the King County Surface Water Design Manual, as amended by the city of Federal Way, and shall be certified for compliance with the requirements of this section by a professional engineer or engineering geologist registered in the state of Washington.

(c) The following standards shall apply to construction activities occurring where construction vehicles will be refueled on site, and/or hazardous materials will be stored, dispensed, used, or handled on the construction site. As part of the city’s project permitting process, the city may require any or all of the following items:

   (i) Detailed monitoring and construction standards;

   (ii) Designation of a person on site during operating hours who is responsible for supervising the use, storage, and handling of hazardous materials, and who has appropriate knowledge and training to take mitigating actions necessary in the event of a fire or spill;

   (iii) Hazardous material storage, dispensing, refueling areas, and use and handling areas shall be provided with secondary containment adequate to contain the maximum release from the largest volume container of hazardous materials stored at the construction site;
(iv) Practices and procedures to ensure that hazardous materials left on site when the site is unsupervised are inaccessible to the public. Locked storage sheds, locked fencing, locked fuel tanks on construction vehicles, or other techniques may be used to preclude access;

(v) Practices and procedures to ensure that construction vehicles and stationary equipment that are found to be leaking fuel, hydraulic fluid, and/or other hazardous materials will be removed immediately, or repaired on site immediately. The vehicle or equipment may be repaired in place, provided the leakage is completely contained;

(vi) Practices and procedures to ensure that storage and dispensing of flammable and combustible liquids from tanks, containers, and tank trucks into the fuel and fluid reservoirs of construction vehicles or stationary equipment on the construction site are in accordance with the International Fire Code; and

(vii) Practices and procedures, and/or on-site materials adequate to ensure the immediate containment and cleanup of any release of hazardous substances stored at the construction site. On-site cleanup materials may suffice for smaller spills, whereas cleanup of larger spills may require a subcontract with a qualified cleanup contractor. Releases shall immediately be contained, cleaned up, and reported if required according to state requirements.

(2) Development within all capture zones, that involves storing, handling, treating, using, producing, recycling, or disposing of hazardous materials, or other deleterious substances, shall comply with the following standards:

(a) Fleet and automotive service station fueling, equipment maintenance, and vehicle washing areas shall have a containment system for collecting and treating all runoff from such areas and preventing release of fuels, oils, lubricants, and other automotive fluids into the soil, surface water, or groundwater. Appropriate emergency response equipment shall be kept on site during the transfer, handling, treatment, use, production, recycling, or disposal of hazardous materials or other deleterious substances.

(b) Secondary containment or equivalent best management practices, as approved by the director, shall be required at loading and unloading areas that store, handle, treat, use, produce, recycle, or dispose of hazardous materials, or other deleterious substances.
(c) Fill material shall not contain concentration of contaminants that exceed cleanup standards for soil as specified in the Model Toxics Control Act. An imported fill source statement is required for all projects where more than 100 cubic yards of fill will be imported to a site. The city may require analytical results to demonstrate that fill materials do not exceed cleanup standards. The imported fill source statement shall include:

(i) Source location of imported fill;

(ii) Previous land uses of the source location; and

(iii) Whether or not fill to be imported is native, undisturbed soil.

(d) All development or redevelopment shall implement best management practices (“BMPs”) for water quality and quantity, as approved by the director. Such practices include biofiltration swales and use of oil-water separators, BMPs appropriate to the particular use proposed, cluster development, and limited impervious surfaces.

(Ord. No. 15-797, § 22, 6-16-15.)

19.145.510 Use of pesticides, herbicides, and fertilizers in critical aquifer recharge areas.

Proposed developments with maintained landscaped areas greater than 10,000 square feet in area shall prepare an operations and management manual using best management practices (“BMPs”) and integrated pest management for fertilizer and pesticide/herbicide applications. The BMPs shall include recommendations on the quantity, timing, and type of fertilizers applied to lawns and gardens to protect groundwater quality.

(Ord. No. 15-797, § 22, 6-16-15.)

Article VI. Frequently Flooded Areas

19.145.520 Frequently flooded areas.

(1) Frequently flooded areas include all areas of special flood hazard as mapped within the city, and other areas that could be threatened by flooding. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Federal Way,” dated May 16, 1995, and any revisions thereto, with an accompanying flood insurance rate map, and any revisions thereto. Based on the landscape of the city, frequently flooded areas occur only along the Puget Sound shoreline and are within the jurisdiction of the shoreline master program, Chapter 15.05 FWRC, Shoreline Management.
(2) Development in frequently flooded areas shall be subject to the provisions in FWRC Chapter 19.142 Flood Damage Prevention.

(Ord. No. 15-797, § 22, 6-16-15.)

Cross references: Environmental policy of the city, FWRC Title 14; water quality requirements and surface water, stormwater and other waterways, Chapter 16.45 FWRC; public use easements, FWRC 19.05.330; rezoning of this district to be conducted under the quasi-judicial rezoning procedure, FWRC 19.35.050 et seq.; land modifications, Chapter 19.120 FWRC.