

**Town of Conconully
Shoreline Master Program**

The Town of Conconully Shoreline Master Program provides the frame work for the management and protection of the “shorelines of the State” under the Town’s jurisdiction.



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Sign-off Sheet

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Abbreviations

Act	Shoreline Management Act
CFR	Code of Federal Regulations
cfs	cubic feet per second
CMZ	Channel Migration Zone
County	Okanogan County
CREP	Conservation Reserve Enhancement Program
CWA	Clean Water Act
DEIS	Draft Environmental Impact Statement
Ecology	Washington Department of Ecology
EPA	U.S. Environmental Protection Agency
EWP	Emergency Watershed Protection
FEMA	Federal Emergency Management Agency
FIRM	Flood insurance rate map
FSA	Farm Services Agency
GMA	Growth Management Act
HPA	Hydraulic Project Approval
NFIP	National Flood Insurance Program
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NWI	National Wetland Inventory
OHWM	Ordinary High Water Mark
PAA	Proposed Annexation Area
RCW	Revised Code of Washington
Reclamation	U.S. Bureau of Reclamation
RV	recreational vehicle

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SCUP	Shoreline Conditional Use Permit
Section 319	Section 319 Nonpoint Source Grants Program
SEPA	State Environmental Policy Act
SHB	Shorelines Hearings Board
SMP	Shoreline Master Program
SRF	State Revolving Loan Fund
SRFB	Salmon Recovery Funding Board
State	State of Washington
Town	Town of Conconully
U.S.	United States
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Service
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife
WHIP	Wildlife Habitat Incentives Program
WRCC	Western Regional Climate Center
WSCC	Washington State Conservation Commission
WSU	Washington State University

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Introduction
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1.0 INTRODUCTION

1.1 PURPOSE AND BACKGROUND

Shorelines in the State of Washington (State) are regulated and protected by the Shoreline Management Act (the Act) of 1971, as amended. The Act was written in response to a citizens' initiative petition. It was adopted through a citizen referendum by a two to one margin. The intent of the Act was to benefit the public interest by protecting shorelines, which are a limited resource. The Act recognizes that it requires planning to balance protecting the public interest on one hand and private property rights on the other.

The Act is based on the Public Trust Doctrine, a common law principle, which says that the waters of the State are a public resource, owned by and available to all citizens equally for navigation, fishing, recreation, and similar uses, no matter who owns the underlying land. The State must protect individual property rights and the Public Trust, which it does through the Act.

Local governments oversee shoreline planning, under state guidance. Each local jurisdiction with shorelines is required to adopt a regulatory document, called a Shoreline Master Program (SMP), which is reviewed and approved by the Washington State Department of Ecology (Ecology). The State rules for SMPs are found in Washington Administrative Code (WAC) 173-26. A major update of these rules was proposed in 2000. Due to a legal challenge, the updated rules were negotiated over the course of more than a year with groups including the Association of Washington Business, Washington Aggregates & Concrete Association, and Washington Environmental Council. The State rule (WAC 173-26) that resulted from these negotiations was adopted in 2003. All jurisdictions are required to incorporate changes to their SMP to comply with the updated rule.

The Town of Conconully (Town) has not had an SMP, so this SMP will be the Town's first. Most of the Town's development, within city limits and potential annexation areas, occurred prior to the enactment of the Act in 1971. Upon approval, this SMP will guide the Town's future development of its shorelines.

The Town's SMP presents background information on the Act; describes Conconully's shoreline jurisdiction; presents an inventory of shoreline resources and other pertinent data; presents an analysis that characterizes the shoreline; presents a shoreline restoration plan; designates shoreline environments; and establishes goals, policies, and regulations that apply to all activities on all affected lands and waters within the Town's shoreline jurisdiction. Maps are provided to illustrate shoreline jurisdiction and environments.

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1.2 JURISDICTION

The Act regulates uses, activities, and modifications of lakes and reservoirs exceeding 20 acres, and streams with a mean annual flow of over 20 cubic feet per second (cfs). Shorelines of the State are found within the Town's boundaries and within the Town's proposed annexation areas (PAAs) (see Exhibit 1 for map; all exhibits are found in Appendix A). However, only shorelines of the State within the Town's boundaries are under the jurisdiction of the Town and subject to this SMP. Shorelines of the State that are in the Town's PAAs will not come under the jurisdiction of the Town or this SMP until the PAAs are officially annexed. The Town has opted to designate the shorelines in the PAAs in advance of annexation, so that in the event the PAAs are officially adopted, the Town's SMP will apply to the shorelines of the PAAs without revision of this SMP.

1.2.1 Current Jurisdictional Shorelines

The Town's jurisdictional shorelines include all lands that are 200 feet landward of the ordinary high water mark (OHWM) of the north and northwest portions of Conconully Reservoir that also coincide with the Town limits and are shown as the red highlighted areas in Exhibit 1.

1.2.2 Future or Potential Jurisdictional Shorelines

Future or potential jurisdictional shorelines are those shorelines composed of all lands that are 200 feet landward of the OHWM of the Conconully Reservoir and Salmon Lake (also known as Conconully Lake) and coincide with the PAAs. Potential jurisdictional shorelines are shown as the pink highlighted areas in Exhibit 2.

1.2.3 Applicability

There are two areas that fall within the Town's jurisdictional shorelines. The "first area" is located on north side of Conconully Reservoir and the "second area" is located on the northwest side of Conconully Reservoir (see red highlighted areas on Exhibit 1). The first area is managed by Conconully State Park but is owned by the U.S Bureau of Reclamation (Reclamation). Because of federal ownership of the first area, proposed projects must comply with Reclamation's development regulations, Washington State laws, Washington Parks and Recreation regulations, and this SMP.

1.2.3.1 Reclamation Development Rules

Reclamation's development rules (43 Code of Federal Regulations [CFR] 429.31) are as follows:

Subpart H--Prohibited and Unauthorized Uses of Reclamation Land, Facilities, and Waterbodies

§ 429.31 What uses are prohibited on Reclamation land, facilities, and waterbodies?



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(a) Reclamation prohibits any use that would not comply with part 423 of this chapter.

(b) Reclamation prohibits any use that would result in new private exclusive recreational or residential use of Reclamation land, facilities, or waterbodies as of the effective date of this part. Improvements that are within the terms and conditions of an existing authorization will not be considered new private exclusive recreational or residential use.

Correspondence with Reclamation regarding their development rules can be found in Appendix A (Exhibit 3).

1.2.3.2 All Remaining Shorelines of the Town

The second area is under private ownership and therefore subject to this SMP. The following statements apply to the second area and to all remaining jurisdictional shorelines of the Town:

1. All proposed uses and development occurring within the Town's jurisdictional shorelines must conform to the Act and this SMP. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this SMP, even though a permit may not be required.
2. Any person wishing to undertake activities constituting "development" within shoreline jurisdictions shall apply to the Shoreline Administrator for a Shoreline Permit. Based on the provisions of this SMP, the Shoreline Administrator shall determine if a Letter of Exemption, a Substantial Development Permit, a Shoreline Conditional Use Permit (SCUP), and/or a Shoreline Variance is required. Substantial development (as defined by Revised Code of Washington [RCW] 90.58.030) shall not be undertaken within the jurisdiction of the Act and this SMP unless a Substantial Development Permit has been obtained and the appeal period has been completed, any appeals have been resolved, and/or the project proponent is allowed to proceed under the provisions of the Act or by court order.
3. This SMP shall apply to every individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, uplands, or waters that fall under the jurisdiction of the Act, EXCEPT for the right of any person established by treaty to which the United States (U.S.) is a party.
4. Maps indicating the extent of shoreline jurisdiction and shoreline designations are up-to-date and accurate at the time of publishing. In the event of a mapping error, the Town will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map. All areas meeting the definition of a shoreline of the State, whether mapped or not, are subject to the provisions of this SMP. Project proponents should use the best available science, field investigations, and on-site surveys, as needed, to accurately establish the location and extent of a proposed project in relation to jurisdictional shorelines.

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1.3 RELATIONSHIP TO OTHER PLANS AND REGULATIONS

In addition to compliance with the Act and the State's Shoreline Guidelines (WAC 173-26), Conconully's SMP is required to be consistent with local plans and policy documents. The SMP must be consistent with the regulations developed by the Town to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.

Uses, developments, and activities regulated by this SMP may also be subject to the provisions of any future Town of Conconully Comprehensive Plan, the Washington State Environmental Policy Act (State Environmental Policy Act [SEPA]: RCW 43.21 and WAC 197-11), the Town of Conconully Municipal Code, and various other provisions of local, state, and federal law, as may be amended. Project proponents shall comply with all applicable laws prior to commencing any use, development, or activity with Town's jurisdictional shorelines.

In the event a conflict occurs between provisions of this SMP and the laws, regulations, codes, or rules of any other authority having jurisdiction within the Town, the regulations that provide more protection to shorelines shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

An applicant applying for a permit from the Town is required to be in compliance with all other local, county, state, regional, or federal statutes or regulations that may also be applicable to such development or use. In this case, many of the shorelines described in this SMP are owned or under the jurisdiction of Reclamation and subject to Reclamation's development rules. In addition, because the PAAs are in Okanogan County (County), any development of the shorelines of the State in PAAs must also comply with the County's SMP.

At the time of an initial inquiry or when a required permit application is submitted, the appointed Shoreline Administrator should inform an applicant of those regulations and statutes that may be applicable to the proposed project to the best of the Administrator's knowledge; provided that the final responsibility for determining the applicability and compliance with all statutes and regulations shall rest with the applicant.

Other activities that could occur along the shoreline (disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approvals not identified here.

1.4 HOW THE SHORELINE MASTER PROGRAM IS USED

The Town's SMP is a planning document that outlines goals and policies for the use, development, protection, and restoration of shorelines of the Town. It is also a regulatory ordinance with regulations for development intended to implement the goals and policies. In order to preserve and enhance the shoreline of the Town it is important that all development

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proposals relating to the shoreline area be evaluated in terms of the Town's SMP, and that the Town's Shoreline Administrator be consulted. The SMP provides the regulatory parameters within which development may occur; or it states that the community considers a certain type of use, development, or activity is unacceptable within the Town's shoreline jurisdiction; or it states that a use or activity may be considered (if a conditional review is applied for), but that the community should be able to ensure that the development is carried out in such a way that the public's interest in protecting the shoreline is retained.

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2.0 PUBLIC PARTICIPATION

2.1 OBJECTIVES

Public participation is an important part of the SMP process. The overall objectives of the Conconully SMP Public Participation Plan are to identify potential stakeholders, invite their participation in the planning process and guide public participation efforts throughout the SMP process. Specific goals are to:

- Broadly disseminate information, proposals, and alternatives.
- Provide opportunity for written and oral testimony.
- Establish public meetings with effective means of public notice pursuant to RCW 36.70A.035.
- Establish a clear means to consider public comments and an effective mechanism to document responses for public review and decision makers' consideration.
- Develop citizen-participation approaches to promote and encourage open public discussion among participating groups and individuals.
- Make all reasonable efforts to invite, inform, and involve all interested persons, private entities, tribal nations, and agencies of the federal, state, and local government having interests and responsibilities relating to the shorelines of the State and the local SMP.

2.2 KEY PARTICIPANTS

A variety of interest groups have a stake in the shorelines in the Town. The following stakeholders should be involved. This list is not exhaustive; other stakeholders not included may also be notified during the public involvement process. Notification to these stakeholders may be accomplished via email or other means.

- Citizens and property owners
- Conconully Town Council
- Washington State Parks
- US Bureau of Reclamation
- State Agencies: Department of Ecology, Department of Natural Resources, Department of Fish and Wildlife, Department of Commerce
- Okanogan County (County)

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2.3 PUBLIC PARTICIPATION AND THE SMP PROCESS

2.3.1 SMP Process

Public participation in the Conconully SMP is an important aspect of the SMP process. The Act and the SMP procedural rules and guidelines require public participation. Local governments are required to make all reasonable efforts to inform, fully involve and encourage participation of interested persons, private entities, affected tribes and local, state and federal agencies. RCW 90.58.130 states:

To insure that all persons and entities having an interest in the guidelines and SMP developed are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:

(1) Make reasonable efforts to inform the people of the State about the shoreline management program and in the performance of the responsibilities provided, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the State. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments

This document sets forth the Town's plan for encouraging and managing public participation. The process will be broken down into the following tasks. This process was developed and mandated by Ecology as a condition of the grant funding provided by the State.

2.3.1.1 Public Participation

- Develop Public Participation Plan
- Conduct public participation activities

2.3.1.2 Shoreline Inventory, Analysis, and Characterization

- Complete shoreline inventory
- Conduct shoreline analysis
- Characterize ecosystem-wide processes
- Characterize shoreline functions
- Conduct shoreline use analysis and identify public access opportunities
- Prepare inventory and characterization report

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2.3.1.3 Draft Shoreline Master Program

- Conduct community visioning process
- General goals, policies, and regulations
- Develop environment designations
- Develop policies, regulations, and standards for shoreline uses and modifications
- Develop administrative provisions
- Prepare cumulative impact analysis

2.3.1.4 Restoration Plan

- Identify degraded areas
- Goals and priorities
- Existing and ongoing restoration projects
- Additional projects needed
- Timeline and benchmarks
- Mechanisms for implementation

2.3.1.5 Local Approval

- Assemble complete draft SMP
- Complete SEPA review and documentation
- Provide Growth Management Act (GMA) 60-day notice of intent to adopt
- Hold public hearing
- Prepare a responsiveness summary
- Approve SMP and submit to Ecology

Information about the Act, SMPs, and the SMP process are available on Ecology's Shoreline Management website (<http://www.ecy.wa.gov/programs/sea/shorelines/index.html>).

2.3.2 Outreach Strategies

The Town has elected to use the following outreach methods:

- Formal Hearings – Public hearings will be held to accept public input in a formal setting. Staff will update the attendees on the latest SMP progress, providing written and visual aids as necessary. After the staff presentation, the hearing will be opened to receive public input for the record. Most hearings will take place at regularly scheduled Town Council Meetings.
- Informal Events – Not all interested parties are available for evening meetings and/or are uncomfortable with the formal hearing process. For these reasons, less formal events will be available. These will include gathering comments at regularly scheduled Town events.

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- Public notifications – The Town of Conconully uses the Omak-Okanogan Chronicle – the Town’s newspaper of record – to publish notices and hearings.
- In addition, notice of formal and informal events will be posted at Town Hall.
- Email – Electronic communication may be used as an alternate method of communication or in addition to mailings, for those who prefer email.

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Shoreline Inventory and Analysis
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3.0 SHORELINE INVENTORY AND ANALYSIS

As a foundation for the development of the goals, policies, and regulations in the Town's SMP, Stantec conducted an inventory and assessment of natural and built conditions along the Town's shorelines. This inventory and analysis, a shoreline characterization, identifies existing conditions and provides an analysis that evaluates the components that make up the ecological health of the shoreline jurisdiction and identifies areas with potential for conservation and restoration of ecological functions.

3.1 BACKGROUND

The Town is located at 48.559° north latitude, 119.751° west longitude in Okanogan County, in north-central Washington. It is situated in the eastern foothills of the Cascade Mountains at 2,311 feet in a valley where several creeks converge, which include branches of Salmon Creek. The Town has a total area of 0.31 square miles with the North Fork Salmon Creek running through the center of town.

According to the Western Regional Climate Center (WRCC) (2015), Conconully's average annual precipitation is 14.88 inches in rainfall and 38.5 inches in snowfall with average monthly temperature ranging from 31° F to 82° F. It is considered to have a humid continental climate. According to the U.S. Census Bureau, the Town's population size was 185 in the year 2000 and 210 in the year 2010. The Town's population size is estimated at 230 for the year 2017.

The Town is flanked closely by two reservoirs, Salmon Lake (313 acres) to the northeast and Conconully Reservoir (450 acres) to the south (WAC 173-20-500). The dams for these reservoirs were built by Reclamation from 1905 to 1910 and 1919 to 1921, respectively. The reservoirs have been designated as shorelines of the State, according to WAC 173-20-500. Beside the North Fork Salmon Creek feeding into Conconully Reservoir, water is fed to the Reservoir through an outlet canal from Salmon Lake into Conconully Reservoir. To the southwest Conconully Reservoir is fed by the West Fork Salmon Creek.

3.1.1 North Fork Salmon Creek

At the U.S. Geological Survey (USGS) Water Gauging Station 12446150 (which is about 2.6 miles north of the Town's northern boundary), from 2013 to 2016 the North Fork Salmon Creek had a mean annual flow of 37.5, 16.5, 18.1 and 25.8 cfs respectively according to USGS data. USGS available data includes only four water years, water years 2013 to 2016. See Exhibit 4, USGS Data, for more details. Prior to entering the Town's boundaries, the waters of the North Fork Salmon Creek are diverted through the pressurized Salmon Lake Feeder Pipe, to Salmon Lake where it is stored for irrigation. The Okanogan Irrigation District has the right to withdraw all but 1.33 cfs from the North Fork Salmon Creek from April 15th through September 30th of each year, leaving a minimal amount of flow that can continue down the natural streambed of the North

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Fork Salmon Creek running through the center of town. The feeder pipe has the design capacity to pump up to 90 cfs according to the *Draft Environmental Impact Statement: Salmon Creek Project* (DEIS) (ENTRIX, 2004). Table 1 shows the average monthly flow diverted down the Salmon Lake Feeder Pipe for one quarter in 2014 and 2015.

Table 1: Average Monthly Flow (cfs) Divert to Feeder Pipe

Year	April	May	June
2014	20.3	24.6	-
2015	27.3	27.6	11.1

Table 1 represents all currently available data from the Okanogan Irrigation District. At 18.1 cfs, clearly the mean annual flow of the North Fork Salmon Creek in 2015 was below 20 cfs (the threshold by which the State asserts jurisdiction) even before any diversion had occurred. A longer-term data set on the flow of the North Fork Salmon Creek from the Okanogan Irrigation District and USGS should be evaluated in the future once this data becomes available. However, given the need to make a determination at the time of the publication of this SMP, it is Stantec’s professional opinion that the portion of the North Fork Salmon Creek that flows through Town is not a shoreline of the State, as it is unlikely that the jurisdictional threshold of a flow of 20 cfs would be met due to the Okanogan Irrigation District’s practice of diverting a considerable amount of water flow from the North Fork Salmon Creek.

3.1.2 West Fork Salmon Creek

The West Fork Salmon Creek water gauging station (12446400) is located near the mouth of the creek where it empties into Conconully Reservoir (see Exhibit 1). No diversions of water flow occur upstream of the water gauging station. According to USGS data, the West Fork of Salmon Creek had a mean annual flow of 33.5 cfs in 2013, 16.3 cfs in 2014, 17.4 cfs in 2015, and 31.3 cfs in 2016 (see Exhibit 5). Although the flow in 2013 was well above the 20 cfs threshold, 2013 was an unusual high precipitation year (150 percent higher than the average). See Figure 1 below. No accumulated precipitation data is available for 2016.

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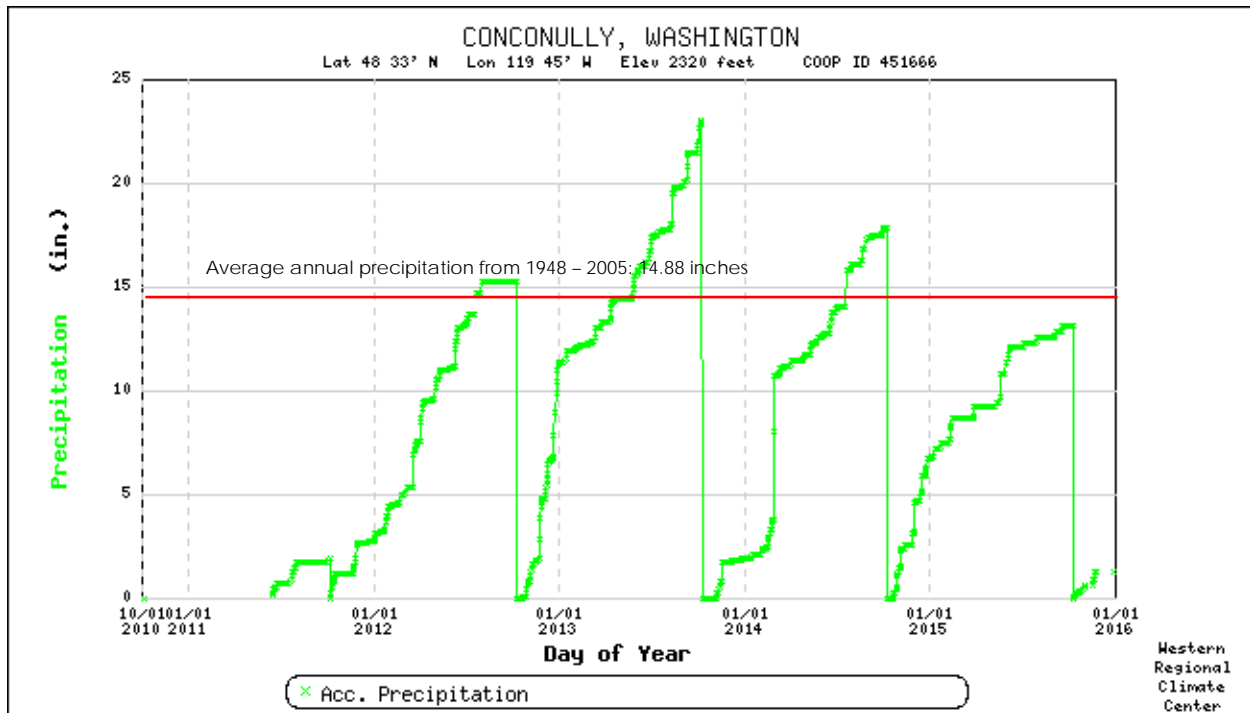


Figure 1: Graph of Precipitation Data for Conconully, WA.

This graph shows that precipitation was considerably above average in 2013, slightly above average in 2014, and below average in 2015 (WRCC, 2015). Average annual precipitation line (red) and text was added by the author of this SMP.

The precipitation in 2014 was still slightly above average, but the mean annual flow of the West Fork Salmon Creek, at 16.3 cfs, was well below the 20 cfs threshold. Although a longer-term data set of the flow is desirable and should be evaluated once it becomes available, it is Stantec's professional opinion that the portion of the West Fork Salmon Creek that is in the Town's PAAs is not a jurisdictional shoreline of the State because mean annual flows are likely below 20 cfs.

3.1.3 Salmon Lake

Salmon Lake exceeds the 20-acre jurisdictional threshold as prescribed by the Act, and so, its shorelines, which include all lands landward and within 200 feet of the lake's OHWM, are shorelines of the State. At the time of publication of this SMP, the shorelines of Salmon Lake are outside of the Town's limits, and so, they are not jurisdictional shorelines of the Town, but are jurisdictional shorelines of the County and subject to the County's SMP. Once the shorelines of Salmon Lake, which is within the Town's PAAs, are officially annexed, this area will be subject to this SMP. See Exhibit 2 for a depiction of the shorelines of Salmon Lake within the boundaries of the PAAs.

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3.1.4 Outlet Channel of Salmon Lake

The outlet channel of Salmon Lake has no water gauge to determine its mean annual flow. There is currently no available data on the flow discharging through it. However, it is Stantec's professional opinion that its flow is below the 20 cfs jurisdictional threshold for these reasons:

- Anecdotal information provided by Zachary Claussen, Public Works Supervisor of the Town (personal communication, June 23, 2015), indicates that while portions of the channel are always full of water, it is backwater from Conconully Reservoir. The portion of the channel between Salmon Lake and the backwater for Conconully Reservoir has infrequent flows.
- The flow management spreadsheet used by the Okanogan Irrigation District to track and account for flows in the various water bodies around Salmon Lake and Conconully Reservoir does not include the outlet channel of Salmon Lake. It does include the North and West forks of Salmon Creek and the irrigation withdrawal from the North of Salmon Creek, all of which have average annual flows below 20 cfs. If the outlet channel of Salmon Lake contributed a substantial flow of over 20 cfs (or even a significant fraction of 20 cfs) it would be reasonable for that flow to also be included in the flow management spreadsheet.

Because the mean annual flow from the Salmon Lake outlet channel is likely below 20 cfs, this channel does not have shorelines that are jurisdictional to the Town under this SMP, the State under the Act, or the County under their SMP.

3.1.5 Conconully Reservoir

Conconully Reservoir exceeds the 20-acre size threshold, so the reservoir's shorelines, which include all lands landward and within 200 feet of the lake's OHWM, are shorelines of the State. There are shorelines of Conconully Reservoir that are within the Town's limits and subject to this SMP, and shorelines that are outside of the Town's limits in the Town's PAAs. Jurisdictional shorelines of the Town are shown as the red shaded areas in Exhibit 1. The shorelines that are within the PAAs are jurisdictional shorelines of the County and subject to the County's SMP. Shorelines of the Town's PAAs are shown as the pink shaded areas on Exhibit 2.

3.2 SUMMARY OF JURISDICTIONAL SHORELINES

Table 2 below shows which shoreline areas are jurisdictional shorelines at the time of publication and which entity has jurisdiction.

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Table 2: Summary of Jurisdictional Shorelines

Water Body	Shoreline of the State	Shoreline of the Town	Shoreline of the County
North Fork Salmon Creek	No	No	No
West Fork Salmon Creek	No	No	No
Conconully Reservoir within Town Limits	Yes	Yes	No
Conconully Reservoir within PAAs	Yes	No*	Yes
Salmon Lake within PAAs	Yes	No*	Yes
Outlet Channel	No	No	No

*Once the PAAs are officially annexed, these shorelines will be subject to this SMP.

3.3 INVENTORY AND ANALYSIS

3.3.1 Critical Areas

Frequently Flooded Areas: A portion of the Town’s jurisdictional shorelines and shorelines in the Town’s PAAs are within the 100-year floodplain (Zone AE), as mapped by the Federal Emergency Management Agency (FEMA). See Exhibit 6a and b for FEMA maps. Some notable exceptions are shorelines in the northwest corner of Conconully Reservoir primarily west of West Fork Road, which are within the 500-year floodplain (Zone X). Water levels of Conconully Reservoir and Salmon Lake are controlled by dams operated by the Okanogan Irrigation District. Water levels are maintained to not exceed set heights but may fluctuate below the set limits. From 2014 to the present date, water levels fluctuated from 12 to 19 feet below the set limit in Conconully Reservoir and 3 to 12 feet in Salmon Lake (Okanogan Irrigation District, unpublished data).

Two floods are noted by USGS. The first was a record flood that devastated the Town in 1894 prior to the construction of both dams. The second occurred in November 1995, where flood waters reached 10.2 feet. Due to the Salmon Lake and Conconully dams, the floodplain is disjointed, but operation of the dams reduces the chance of flooding for the Town.

Wetlands: According to U.S. Fish and Wildlife Service’s (USFWS) National Wetland Inventory (NWI) Mapper, there are three wetlands that occur along the shoreline of Conconully Reservoir and no wetlands along Salmon Lake. See Exhibit 7 in Appendix A for the NWI map. Most notable is a large freshwater forested/shrub wetland on the northeast side of the reservoir in Conconully State Park. Extents of mapped wetlands along the whole of the reservoir are likely underestimated, especially on the north side of the reservoir, where emergent vegetation is seen in the photo below, Figure 2.

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Figure 2: Wetland Photo

Figure 2 shows a freshwater emergent wetland on the north end of Conconully Reservoir in Conconully State Park (Google Earth, 2015). Forested/shrub wetlands can be seen in the distance on the northeast side of the reservoir.

Wetlands found along the shores of Conconully Reservoir are lake-fringe wetlands and protect the water quality by trapping sediments and retaining excess nutrients and other pollutants, provide flood protection, shoreline stabilization, groundwater recharge, and fish and wildlife habitat. Lake-fringe wetlands likely play a significant role in the ecology of the Conconully Reservoir, which is known to have a shallow basin, while playing an insignificant role in Salmon Lake, which is known to have a deep basin that drops off quickly.

Aquifer Recharge Area: There are no known aquifer recharge areas mapped in the vicinity.

Fish and Habitat: According to the *Salmon Creek Project DEIS*, rainbow trout, kokanee salmon, largemouth bass, eastern brook trout, goldfish, and westslope cutthroat trout are known to inhabit the reservoirs and upper tributaries of Salmon Creek. Rainbow trout and brook trout are stocked in the reservoirs. Historically, spring chinook salmon (endangered), coho salmon, chum salmon, and steelhead (threatened) occurred in the watershed (ENTRIX, 2004). According to Ecology, anadromous fish were extirpated from Salmon Creek watershed due to zero flow periods in 1970 and 1979 downstream of the Conconully Reservoir Dam, See Exhibits 8a, b, and c for available fish occurrence maps from the Washington Department of Fish and Wildlife (WDFW).

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Wildlife and Habitat: A large variety of wildlife species inhabit the Salmon Creek watershed, including amphibians, reptiles, birds, and mammals. The *Salmon Creek Project DEIS* provides a relatively complete table listing of species, their legal status, and expected habitat in the watershed. This table is provided as Exhibit 9 (ENTRIX, 2004). Special status species include the bald eagle, golden eagle, gray wolf, grizzly bear, and lynx. The bald eagle, golden eagle, grey wolf, and lynx may occur in area, while the grizzly bear is unlikely to occur in the area. The forested and vegetated shorelines and the reservoirs themselves provide valuable habitat for wildlife.

Geologically Hazardous Areas: According to the *Okanogan County, Washington Multi-Hazard Mitigation Plan*, the County has an 18 to 40 percent chance of experiencing an earthquake of magnitude 5 or higher in the next 50 years. According to the soil resource report (Exhibit 10) from the Natural Resource Conservation Service (NRCS) (2015) prepared for the Town's shorelines, up to 15 percent of the soils can have a slope between 15 to 65 percent slope. Slopes of 30 percent or greater are considered to be potentially geologically hazardous. Several soil types are rock outcrops or a mix of loam and rock outcrops. Some of the loam soils have a moderate susceptibility to erosion if vegetation is cleared.

3.3.2 Prime Farmland

There are no designated prime farmlands located within the Town's jurisdictional shorelines or shorelines in the PAAs (see Exhibit 11; Ecology, 2015). There are "prime farmlands if irrigated" located on the north side of Conconully Reservoir. However, this area is not used as farmlands as it is within Conconully State Park and the Town limits where residents and businesses are located.

3.3.3 Hazardous Materials

Based on a review of Ecology's Facility/Site Mapper and Ecology's Toxic Cleanup Program March 2, 2017 Hazardous Site List (Exhibit 12), there is only one hazardous site in the vicinity of the shorelines that has the potential to affect human health if not cleaned up. It is the Conconully General Store site (FSID 54988827) located at 201 N Main Street, Conconully, WA. Ecology has ranked the site as a "5" using the Washington Ranking Method. A "5" represents the lowest risk to human health and the environment. In 1995, two leaking underground storage tanks were removed and surrounding petroleum contaminated soils were removed. However, "most, but not all contaminated soils were removed" due to the potential that any further excavation would undermine the store's foundation, and the need to stop excavating at the end of the store's property line. The store is 212 feet away from North Fork Salmon Creek and 1,200 feet away from Conconully Reservoir. There is no evidence that the release reached groundwater sources. Although the potential is small for the contaminants getting to the North Fork Salmon Creek or Conconully Reservoir, some consideration should be given to final clean up and/or removal of the site from the list.

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3.3.4 Land Use

The majority of the shorelines surrounding Conconully Reservoir and Salmon Lake are owned by the federal government, primarily Reclamation, with some lands being owned by the Bureau of Land Management and the U.S. Forest Service. Only about 13.7 percent of the linear shorelines that are adjacent to Conconully Reservoir are in private ownership. Thirty-nine (39) percent of the federally-owned linear shoreline that is adjacent to Conconully Reservoir is managed by Washington State Parks as Conconully State Park. One hundred (100) percent of the shorelines adjacent to Salmon Lake are under federal ownership. Due to the ownership by the federal government and State Park management, the shorelines surrounding the Conconully Reservoir and Salmon Lake have undergone relatively little development compared to many other large water bodies in the State.

During the 1960s, when the shorelines of Conconully Reservoir and Salmon Lake were under the management of the Okanogan Irrigation District, some Reclamation lands were allowed to develop (Richard Honey, Reclamation, June 22, 2015). There were about 70 to 80 summer homes; many with docks were constructed along Reclamation's shorelines. A majority of these homes were built on the north side of Salmon Lake, which has the highest density of developments, according to Richard Honey. A few privately-owned resorts were developed (Liar's Cove on the northeast side of Conconully Reservoir, Shady Pines on the southwest, and Conconully Lake Resort on the north side of Salmon Lake.) The private owners own their structures, but do not have ownership of the land underneath their structures. Reclamation now has a policy against any new private development on their lands and the Okanogan Irrigation District is no longer managing Reclamation lands. Despite some development, development along Salmon Lake is low density or at most moderate on the north shore within the PAAs, development along the south shore of Salmon Lake in the PAAs is nonexistent, and the shoreline of Conconully Reservoir is very low density.

The Town's jurisdictional shoreline of the first area is in Conconully State Park and is made up of grass lawns and trees and an RV park. The second area is made up of low density single residential homes with grass lawn areas and trees near the shoreline. Most of the linear shoreline adjacent to Conconully Reservoir and Salmon Lake is undeveloped. A primary use of the Conconully Reservoir and Salmon Lake is water storage for irrigation.

3.3.5 Public Access

Public access to shorelines along Conconully Reservoir is provided by Washington State Parks, which offers two boat ramps and one boat dock for handling motorized and non-motorized boats. The Conconully State Park occupies most of the north and west side of the reservoir and offers nature trails and nearby camping. Most of the state park lands are under the ownership of Reclamation. The WDFW operates and maintains a boat dock, ramp, and parking lot on Salmon Lake.

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The West Fork Road provides access to adjacent shorelines along the west side of Conconully Reservoir, and North Main Street and Conconully Road provide access to shorelines on the east side. Sinlahekin Road provides shoreline access to the north side of Salmon Lake. The south side of Salmon Lake is relatively inaccessible because of steep terrain and lack of roads.

3.3.6 Historic Resources

There are two historic properties that are eligible for inclusion in the National Register of Historic Places (NRHP). Conconully Dam and Salmon Lake Dam, built in 1905 to 1910 and 1919 to 1921 respectively, are significant because they were Reclamation's first or earliest irrigation projects in Washington State and are eligible under criterion A (events) and D (design/construction) for inclusion in the NRHP. See Exhibit 13 for more details.

3.3.7 Soils

According to the soil resource report (Exhibit 10) from the NRCS prepared for the Town's shorelines, four soils types make up a majority of the study area. Leiko ashy sandy loam (12 percent of the study area) is found on the outwash terrace of North Fork Salmon Creek, which slopes gently from the north to the south from 0 to 3 percent. This soil can be useful for farming if irrigated; however, most of it is found in the Town's limits and is being used for other purposes. The soil is excessively well drained with a depth to water table of more than 80 inches. Additional major soil types are Thuso-Lithic Haploxerepts-Rock outcrop complex (5.6 percent), Leiko ashy sandy loam (4.6 percent), and Donovan-Rock outcrop complex (4.2 percent). Remaining soil types that are prime farmland if irrigated are Owhi ashy fine sandy loams, which are primarily found on lands on and surrounding the cemetery (shown on Exhibit 1).

3.3.8 Opportunity Areas

The community of Conconully would like to see public recreational opportunities increased along the shorelines of Conconully Reservoir and Salmon Lake. Potential methods to achieve this include the following: constructing more road access, boating docks, boat launches, and trails (Sam Martin, Mayor of Conconully, personal communication, June 22, 2015). The community has expressed an interest in the construction of a fishing pier and having the Conconully Reservoir dredged. Dredging the shallow portions of the Conconully Reservoir would allow greater access to the reservoir by boats and increase boat safety. In addition, the community is interested in maintaining more consistent high reservoir/lake levels, so that boats can be put in safely. Sedimentation of the reservoirs by sediment-laden stormwater runoff from potential new public facilities could be reduced by bio-swales or other stormwater mitigation facilities.

Some consideration should be given to getting the Conconully General Store site cleaned up or removed from the Hazardous Site List to protect the shorelines from petroleum contamination or to confirm that the site no longer poses any risk.

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In 2004, the Bonneville Power Administration in a DEIS proposed increasing the outflow of Conconully Reservoir to support salmon habitat, as the lower reaches of Salmon Creek are habitually dry. If the proposal were to move forward, this would provide opportunity for threatened and endangered salmon species to return to the Salmon Creek watershed.

The Town has the opportunity to assign appropriate shoreline environment designations to reaches of the Conconully Reservoir and Salmon Lake, such as shorelines of the state park and reaches adjacent to resorts. Appropriate environmental designations include "natural" or "urban conservancy" assignments to protect the park-like setting of these reaches.

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4.0 GOALS AND POLICIES

Goals come from the Act and are born out of the Town's vision for the use of its shorelines and express values that are important to the Town. Goals form the foundation for the policies and regulations that follow. The Act requires that every SMP address the following seven specific "elements" in their SMP: shoreline use, economic development, circulation, conservation, public access, recreation, and historic/cultural.

Policies are detailed statements reflecting the Town's goals and visions for its shorelines. Policies provide detail to the broader goals with which they are associated, and act as a bridge between the goals and implementing regulations.

The goals and policies described in this section are categorized according to the Master Program elements mandated in the Act.

4.1 SHORELINE USES AND MODIFICATIONS ELEMENT

4.1.1 Goal:

Provide for reasonable and appropriate use of shoreline and adjacent land areas while recognizing and protecting private property rights consistent with the public interest, protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life; minimizing damage to the ecology, environment, and other resources of the shoreline area; and minimizing any interference with the public's use of the water.

4.1.2 Policy:

4.1.2.1 General Policies

- Ensure that uses, activities, and facilities are located on the shorelines in such a manner as to retain or improve the quality of the environment and will maintain or improve the health, safety, and welfare of the public.
- Ensure that proposed shoreline uses do not infringe upon the rights of others, upon the rights of private ownership, or the rights of the public under the Public Trust Doctrine.

4.1.2.2 Shoreline Environmental Designation Policies

- Provide a comprehensive shoreline environment designation system to categorize the Town's shorelines into environments based upon the primary characteristics of shoreline areas to guide the use and management of these areas.

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- Assign appropriate environment designations system for preservation of wildlife habitat area, natural resources, cultural and historic resources, and public agency operations.

4.1.3 Fill and Excavation Policies

- Limit fill waterward of the OHWM to support ecological restoration or to facilitate water-dependent or public access uses.
- Allow fill consistent with floodplain regulations upland of the OHWM provided it is located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, and is the minimum necessary to implement an approved project.

4.1.4 In-Water Structure Policies

- Locate, plan, and permit in-water structures only when consistent with the full range of public interests, ecological functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

4.1.5 Residential Development Policies

- Consider single-family residential development as a priority use when developed without adverse impacts to ecological functions.
- Locate and construct residential development in a manner that ensures no net loss of shoreline ecological functions.
- Ensure the overall density of development, lot coverage, and height of structures is appropriate to the physical capabilities of the site and consistent with the comprehensive plan.
- Ensure new residential development provides adequate buffers or open space from the water to protect or restore ecological functions and ecosystem-wide processes, to preserve views, to preserve shoreline aesthetic characteristics, to protect the privacy of nearby residences, and to minimize use conflicts.
- Make adequate provisions for services and infrastructure necessary to support residential development.
- Design and locate residential development to preserve existing shoreline vegetation, to control erosion, and to protect water quality.
- Design and locate new residences so that shoreline stabilization will not be necessary to protect the structure. The creation of new residential lots should not be allowed unless it is demonstrated the lots can be developed without:
 - Constructing shoreline stabilization structures (such as bulkheads).
 - Causing significant erosion or slope instability.
 - Removing existing native riparian vegetation within shoreline buffers.

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4.1.6 Shoreline Habitat and Natural Systems Enhancement Projects Policies

- Include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low-impact development techniques in projects located within shoreline jurisdiction, where feasible.
- Encourage and facilitate implementation of projects and programs included in the SMP Shoreline Restoration Plan.

4.1.7 Shoreline Stabilization Policies

- Locate and design new development, including subdivisions, to eliminate the need for new shoreline modifications or stabilization.
- Design, locate, size and construct new or replacement structural shoreline stabilization measures to minimize and mitigate the impact of these modifications on the Town's shorelines.
- Give preference to non-structural shoreline stabilization measures over structural shoreline stabilization, and give preference to soft structural shoreline stabilization over hard structural shoreline stabilization.
- Allow location, design, and construction of riprap and other bank stabilization measures primarily to prevent damage to existing development or to protect the health, safety, and welfare of the Town's residents.

4.2 ECONOMIC DEVELOPMENT ELEMENT

4.2.1 Goal:

Provide for economically productive industrial and commercial uses that are particularly dependent on shoreline location or use and that will support the local economy and foster healthy, orderly economic growth.

4.2.2 Policy:

- Promote shoreline areas of the Town as an economic asset to the community.
- Promote recreational opportunities along shoreline that are compatible with or complement the character and existing uses of critical areas and shoreline.
- Give preference to economic activities that either leave natural shoreline features such as trees, native plants, and wildlife habitat unmodified, or that modify them in a way that enhances human awareness and appreciation of the shoreline and other natural and non-natural surroundings.
- Ensure that any economic activity taking place along the shorelines operates without causing irreparable harm to the quality of the site's or adjacent shoreline's environment.

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- Where possible, developments are encouraged to incorporate low-impact development techniques into new and existing projects and integrate architectural and landscape elements that recognize the shoreline environment.
- Require non-water-oriented recreational development provide for ecological restoration and public access as appropriate.
- Develop, as an economic asset, heritage tourism and preservation of cultural and historic resources along shorelines in a manner that will enrich the experience of residents and visitors alike.

4.3 CIRCULATION ELEMENT

4.3.1 Goal:

Maintain and enhance a circulation and access network that is compatible with the shoreline environment.

4.3.2 Policy:

- Provide a safe, reasonable, and adequate traffic circulation system, designed to have the least possible adverse effect on shoreline resources, and where feasible that contributes to the functional and visual enhancement of those resources.
- Allow for maintenance and improvements to existing roads and parking areas. Allow for necessary new roads and parking areas where other locations outside of shoreline jurisdiction are not feasible.
- Encourage development to increase connections within the community by adding trails and sidewalks along shorelines when feasible and when compatible with the natural character, resources, and ecology of the shoreline.
- Encourage low-impact parking facilities, such as those with permeable pavements and bio-swales.

4.4 CONSERVATION ELEMENT

4.4.1 Goal:

Preservation and restoration of natural resources of shorelines and the waters they encompass, and protection of those resources against adverse impacts, including loss of ecological functions necessary to sustain the natural resources.

4.4.2 Policy:

- Protect streams, stream corridors, wetlands, natural shorelines, aquifers and unique, diverse, or critical wildlife and native plant habitat.
- Enhance the values and functions of open space lands.

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- The Town should support public and private land trusts in acquiring conservation easements that provide open space attributes, consistent with the intents of property owners.
- Control of erosion at its source as a means of controlling water pollution, flooding, and habitat damage downstream should be encouraged.
- Control stormwater runoff in a manner consistent with low-impact development practices, which utilize natural detention, retention, and recharge techniques to the maximum extent possible.
- Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within shoreline jurisdiction, and incentives to private property owners to encourage ecologically sound design and implementation of best land management practices.
- Enhance and restore areas that are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

4.5 PUBLIC ACCESS ELEMENT

4.5.1 Goal:

Provide, protect, and enhance physical and visual public access to shorelines, the waters they encompass, and adjacent shoreline areas, consistent with the natural character, features, and resources of the shoreline, private property rights, and public safety.

4.5.2 Policy:

- Identify opportunities for public access on publicly owned shorelines. Preserve, maintain, and enhance public access afforded by shoreline street ends, bridges, public utilities and rights-of-way.
- Provide physical and visual public access in the shoreline jurisdiction in association with the following uses when feasible: residential developments with five or more dwellings; and public agency recreational development.

4.6 RECREATION ELEMENT

4.6.1 Goal:

Provide safe, accessible facilities for recreation that enhance public enjoyment of the shoreline and the waters they encompass, consistent with the natural character, features, and resources of the shoreline, private property rights, and public safety.

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4.6.2 Policy:

- Give priority to water-oriented recreational opportunities in order to provide access, use, and enjoyment.
- Allow for passive and active shoreline recreation that emphasizes location along shorelines in association with the Town's and other public agencies park, recreation, wildlife habitat and open space plans.
- Promote recreational developments and plans that conserve the shoreline's natural character, ecological functions, and processes.
- Support the interpretation and protection of cultural and historic resources to enrich the recreation experience at shorelines.

4.7 HISTORIC, CULTURAL, SCIENTIFIC, AND EDUCATIONAL ELEMENT

4.7.1 Goal:

Identify and protect important archaeological, historical, and cultural structures, sites, and areas; as well as other resources having historic, cultural, or educational values, that are located in the shoreline area, for educational, scientific, and enjoyment uses of the public.

4.7.2 Policy:

- Prior to demolition, moving, or alteration to any designated historic, cultural, and archaeological landmark in a shoreline area, ensure that due consideration is given to preservation or, at a minimum, documentation of its cultural or archaeological value.

5.0 SHORELINE ENVIRONMENT DESIGNATIONS

5.1 INTRODUCTION

Shoreline environment designations are classifications of shoreline areas that reflect local shoreline conditions and the community's aspirations for a particular area of shoreline. Shoreline environment designations provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. Environment designations encourage certain activities in some areas that protect or enhance the shoreline and discourage other activities that detract from the desired character of the shoreline.

Assigning environment designations is a required part of the SMP planning process. Ecological characteristics, shoreline reaches, land use patterns, community goals, and shoreline management recommendations from the inventory and characterization report are all part of the equation for assigning environment designations.

The Town has assigned four shoreline environment designations that cover the Town's jurisdictional shorelines, including Aquatic, Natural, Shoreline Residential, and Urban Conservancy. These shoreline environment designations are recommended in the SMP Guidelines. The Town may alter the recommended shoreline environment designations or create an alternative designation, as allowed by the Act, to better fit the character of a shoreline reach and the Town's goals for an area. An alternative designation has not been developed at this time. See Exhibit 14 for an overview visual depiction of the locations of these environmental designations. Undesignated shorelines will automatically be assigned a Rural Conservancy or Urban Conservancy designation as appropriate.

5.2 AQUATIC

5.2.1 Purpose

The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

5.2.2 Designation Criteria

Lands waterward of the OHWM should be designated Aquatic environment.

5.2.3 Area Designated

The entire waterward area of the OHWM of Conconully Reservoir and Salmon Creek is designated as Aquatic. This area is shown in Exhibit 14.

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5.2.4 Management Policy

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

5.3 NATURAL

5.3.1 Purpose

The purpose of the Natural environment designation 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 Town will include planning for restoration of degraded shorelines within this environment.

5.3.2 Designation Criteria

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

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity.
2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest.
3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

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5.3.3 Area Designated

See Exhibit 14 for the general location of Natural environments. The south shore of Salmon Lake, the area around West Fork Salmon Creek, and portions of the eastern shore of Conconully Reservoir are designated as Natural environments.

5.3.4 Management Policy

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
2. The following new uses should not be allowed in the Natural environment:
 - a. Commercial uses.
 - b. Industrial uses.
 - c. Non-water-oriented recreation.
 - d. Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines.
3. Single-family residential development may be allowed as a conditional use within the Natural environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
4. Commercial forestry may be allowed as a conditional use in the Natural environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.
5. Agricultural uses of a very low-intensity nature may be consistent with the Natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
6. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed if no significant ecological impact on the area will result.
7. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, 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.

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5.4 RURAL CONSERVANCY

5.4.1 Purpose

The purpose of the Rural Conservancy environment designation is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development and other natural resource-based low-intensity uses.

5.4.2 Designation Criteria

Assign a Rural Conservancy environment designation to shoreline areas outside incorporated municipalities when the following characteristics apply:

1. The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170.
2. The shoreline is currently accommodating residential uses outside the incorporated Town.
3. The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or floodplains or other flood-prone areas.
4. The shoreline is of high recreational value or with unique historic or cultural resources.
5. The shoreline has low-intensity water-dependent uses.

5.4.3 Area Designated

No Rural Conservancy Areas are delineated at this time.

5.4.4 Management Policy

1. Uses in areas designated as Rural Conservancy should be limited to those that sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
2. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.
3. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-231. New development should be designed and located to preclude the need for such work.

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

5.5 URBAN CONSERVANCY

5.5.1 Purpose

The purpose of the Urban Conservancy shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource and agricultural uses, achieve natural floodplain processes when flow is present, and provide recreational and low-intensity residential development opportunities, as applicable. Examples of uses that are appropriate in an Urban Conservancy shoreline designation include open space preservation, agricultural uses, low-impact recreation uses, and low-intensity residential development.

5.5.2 Designation Criteria

The following criteria are used to consider the Urban Conservancy shoreline designation:

1. The shoreline is located within the incorporated area and designated urban growth area.
2. The shoreline has ecological functions to preserve with opportunity for restoration.
3. The shoreline is planned or platted for agriculture uses.
4. The shoreline is not highly developed with limited existing and future potential for low-density residential development.
5. The shoreline has limited potential for public, water-oriented recreation.

5.5.3 Area Designated

See Exhibit 14 for the general location of Urban Conservancy environments. The area around Conconully Dam has been designated as Urban Conservancy.

5.5.4 Management Policy

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

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1. Uses in the Urban Conservancy – shoreline designation should be limited to those that sustain the shoreline area's physical and biological resources and do not substantially degrade shoreline ecological functions and processes or the rural, residential, and natural character of the shoreline area.
2. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.
3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality when water is present to ensure no net loss of shoreline ecological functions.
4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided significant adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.

5.6 SHORELINE RESIDENTIAL

5.6.1 Purpose

The purpose of the Shoreline Residential designation is to accommodate residential development and accessory structures. The shoreline residential environment may also provide appropriate public access and recreational uses.

5.6.2 Designation Criteria

The Shoreline Residential environment designation is assigned to shoreline areas if they are predominantly small-lot single-family or multi-family residential development or are planned and platted for such residential development.

5.6.3 Area Designated

See Exhibit 14 for the general location of Shoreline Residential environments. The north shore of Salmon Lake and the west and portions of the east shore of Conconully Reservoir are designated Shoreline Residential.

5.6.4 Management Policy

1. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, considering the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

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2. Multi-family and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. Commercial development should be limited to water-oriented uses.

5.7 HIGH-INTENSITY

5.7.1 Purpose

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

5.7.2 Designation Criteria

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

5.7.3 Area Designated

No High-Intensity environments are designated at this time.

5.7.4 Management Policy

1. In regulating uses in the High-Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses, or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning.
2. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated High-Intensity. However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.
3. Policies and regulations shall assure no net loss of shoreline ecological functions because of new development. Where applicable, new development shall include environmental

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

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

5.8 ALTERNATIVE [may be added in future]

5.8.1 Purpose

5.8.2 Designation Criteria

5.8.3 Area Designated

5.8.4 Management Policy

6.0 REGULATIONS

6.1 GENERAL REGULATIONS

6.1.1 Shoreline Use and Modification

- A. Table 3: Shoreline Use and Modification Matrix indicates which shoreline activities, uses, developments, and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment designation. Activities, uses, developments, and modifications are classified as follows:
1. Permitted Uses require a Shoreline Substantial Development Permit or a Shoreline Exemption.
 2. Conditional Uses require a SCUP per Section 9.1.7.
 3. Prohibited activities, uses, developments, and modifications are not allowed and cannot be permitted through a Variance or SCUP.
- B. Accessory uses shall be subject to the same shoreline permitting process as their primary use.
- C. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall control.
- D. Authorized uses and modifications shall be allowed only in shoreline jurisdiction where the underlying zoning allows for it and are subject to the policies and regulations of this SMP.
- E. A use is considered unclassified when it is not listed in Table 3: Shoreline Use and Modification Matrix, or in the Shoreline Modifications and Use Regulations, per Section 6.2 of this Chapter. Any proposed unclassified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the requirements of this Chapter and the requirements for conditional uses.
- F. Exemptions shall be narrowly construed. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Substantial Development Permit process.
- G. If any part of a proposed activity, use, modification, or development is not eligible for exemption per Section 9.1.5 (Exemptions from Shoreline Substantial Development Permits), then a Shoreline Substantial Development Permit or SCUP shall be required for the entire proposed development project.

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- H. When a specific use or modification extends into the Aquatic environment and an abutting upland environment without clear separation (e.g., shoreline stabilization), the most restrictive permit process shall apply to that use or modification.
- I. Shoreline and critical areas buffers found in Section 6.3 of this Chapter apply to all uses and modifications unless stated otherwise in the regulations.
- J. None of the allowed uses shall be conducted in the floodway in any environment designation, except as allowed by Section 6.3.7, Frequently Flooded Areas. No floodways are currently designated.
- K. Shoreline use and modification matrix:

Table 3: Shoreline Use and Modification Matrix

Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable;				
Use/ Modification	Aquatic	Natural	Urban Conservancy	Shoreline Residential
Resource Uses				
Agriculture	X	A	A	A
Fill and Excavation				
Waterward of OHWM	CU	CU	CU	CU
Other upland fill	N/A	CU	A	A
In-water Modifications				
In-water structures	CU	X	CU	A
Recreational Development				
Water-dependent	CU	CU	A	A
Water-related/enjoyment (trails, accessory buildings)	X	X	CU	A
Nonwater-oriented	X	X	X	X
Residential Development	X	X	A	A
Shoreline Habitat and Natural Systems Enhancement Projects	A	A	A	A
Shoreline Stabilization and Flood Control				
Flood Control	CU	CU	CU	CU
Modification of existing flood control facilities (Dikes and Levees), including replacement landward of existing location	CU	CU	CU	CU

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Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable; Use/ Modification	Aquatic	Natural	Urban Conservancy	Shoreline Residential
New flood control facilities (Dikes and Levees)	CU	CU	CU	CU
Shoreline Stabilization New	CU	CU	CU	CU
Shoreline Stabilization Hard	CU	CU	CU	CU
Shoreline Stabilization Soft	CU	CU	CU	CU
Shoreline Stabilization Replacement	CU	CU	CU	CU
Transportation				
Highways, Arterials, Railroads (parallel to OHWM)	N/A	X	A	A
Secondary/Public Access Roads	X	CU	A	A

Note that the Rural Conservancy and High-Intensity designations have not been included in this table, as no areas have been given these designations at present. If areas are designated Rural Conservancy or High-Intensity in future, this table should be updated as necessary.

6.1.2 Development Standards

- A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 4. These standards apply to all use and modification unless indicated otherwise. In addition, shoreline developments shall comply with all other dimensional requirements of the Conconully Municipal Code.
- B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP and is not otherwise allowed by an administrative reduction or an administrative modification, such development or use can only be authorized by approval of a Shoreline Variance.
- C. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the State that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where the SMP does not prohibit the same and then only when overriding considerations of the public interest will be served.

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D. Shoreline development standards table:

Table 4: Shoreline Development Standards

	Aquatic	Urban Conservancy	Natural	Shoreline Residential
Building Height: maximum in feet	NA	35	NA	35
Impervious Surface Cover %	NA	30/15 ¹	5	35
Riparian Buffer Width in feet ^{2,3}	NA	75	100	75
1. 30% Impervious surface cover for residential land uses; 15% for agricultural land use 2. Measured from the OHWM or top of bank, as applicable 3. Accompanied by other critical areas protections and stormwater management measures, as applicable				

6.1.3 Archaeological and Historic Resources

- A. In all developments, whenever an archaeological area or historic site is discovered by a development in the shoreline area, the developer shall immediately stop the work and notify the Town, and the Washington State Department of Archaeology and Historic Preservation and affected local Indian (Colville) tribes.

- B. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource, or upon findings as described in Section 6.1.3A, the Town shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural, or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the site assessment to the Shoreline Administrator for distribution to the applicable parties for review.

- C. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, and the local Indian tribes (Colville).



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6.1.4 Environmental Protection

- A. All project proposals, including those for which a Shoreline Substantial Development Permit is not required, shall comply with RCW Chapter 43.21C, the Washington SEPA.
- B. Applicants shall apply the following sequence of steps in order of priority to avoid or minimize significant adverse effects and significant ecological impacts, with 1) being top priority:
 - 1. Avoiding the adverse impact altogether by not taking a certain action or parts of an action.
 - 2. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
 - 3. Rectifying the adverse impact 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 adverse impact over time by preservation and maintenance operations.
 - 5. Compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments.
 - 6. Monitoring the adverse impact and the compensation projects and taking appropriate corrective measures.
- C. Projects that cause significant adverse environmental impacts, as defined in WAC 197-11-794 and Section 9.1.17, Definitions, are not allowed unless mitigated according to 6.1.4B, above, to avoid reduction or damage to ecosystem-wide processes and ecological functions. As part of this analysis, the applicant shall evaluate whether the project may adversely affect existing hydrologic connections between streams and wetlands, and either modify the project or mitigate any impacts as needed.
- D. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the adversely impacted functions directly and in the immediate vicinity of the adverse impact. However, alternative compensatory mitigation may be authorized within the affected drainage area or watershed, which addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans, including the Shoreline Restoration Plan, applicable to the area of adverse impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

6.1.5 Shoreline Vegetation Conservation

- A. Vegetation conservation standards shall not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses, and developments may

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be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.

- B. Regulations specifying establishment and management of shoreline buffers are located in the Section 6.3, Critical Areas. Vegetation within shoreline buffers, other stream buffers, and wetlands and wetland buffers shall be managed consistent with Section 6.3, Critical Areas.
- C. Vegetation outside of shoreline buffers, other stream buffers, and wetlands and wetland buffers and within shoreline jurisdiction shall be managed according to Section 6.1.4, Environmental Protection, and any other regulations specific to vegetation management contained in other chapters of this SMP.
- D. Vegetation clearing outside of wetlands and wetland and stream buffers shall be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP. Mitigation sequencing shall be applied so that the design and location of the structure or development minimizes native vegetation removal. Selective pruning of trees for safety and view protection is allowed.

6.1.6 Water Quality, Stormwater, and Nonpoint Pollution

- A. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and groundwater adjacent to the site.
- B. When applicable, all shoreline development should comply with the requirements of the latest version of Ecology's *Stormwater Management Manual for Eastern Washington*.
- C. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land. Potentially harmful materials shall be maintained in safe and leak-proof containers.
- D. Within 25 feet of a water body, herbicides, fungicides, fertilizers, and pesticides shall only be applied in strict conformance to the manufacturer's recommendations and in accordance with relevant state and federal laws.
- E. When applicable, new development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the latest version of Ecology's *Stormwater Management Manual for Eastern Washington*, including the use of best management practices (BMPs). Additionally, new development shall implement low-impact development techniques where feasible and necessary to fully implement the core elements of the *Surface Water Design Manual* (King County Department of Natural Resources and Parks, 2016).

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- F. For development activities with the potential for adverse impacts on water quality or quantity in a stream or fish and wildlife habitat conservation area, a critical area report as prescribed in Section 6.3, Critical Areas, shall be prepared. Such reports shall discuss the project's potential to exacerbate water quality parameters, which are impaired and for which Total Maximum Daily Loads for that pollutant have been established, and prescribe any necessary mitigation and monitoring.
- G. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable State agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in shoreline waterbodies.

6.1.7 Public Access

- A. Applicants required to provide shoreline public access shall provide physical or visual access, consistent with the Town's and other agencies management plans when applicable, unless specifically exempted in this section. Examples of physical and visual access are listed below.
 - 1. Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters.
 - 2. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, view platform, or other area serving as a means of physical approach to public waters.
- B. Except as provided in SMP Section 6.1.7C below, new uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
 - 1. The development is proposed by a public entity or on public lands.
 - 2. The nature of the proposed use, activity, or development will likely result in an increased demand for public access to the shoreline.
 - 3. The proposed use, activity, or development is not a water-oriented or other preferred shoreline use, activity, or development under the Act, such as a non-water-oriented commercial or recreational use.
 - 4. The proposed use, activity, or development may block or discourage the use of customary and established public access paths, walkways, trails, or corridors.
 - 5. The proposed use, activity, or development will interfere with the public use, activity, and enjoyment of shoreline areas or waterbodies subject to the public trust doctrine.
 - 6. The proposed activity is a publicly financed shoreline erosion control measure (when feasible).

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- C. An applicant shall not be required to provide public access where one or more of the following conditions apply, provided such exceptions shall not be used to prevent implementing the access and trail provisions mentioned in the Town's and other agencies management plans. In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, the Town shall consider alternative methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access:
1. Proposed use, activity, or development only involves the construction of four or fewer single-family dwellings.
 2. Proposed use is agricultural/ranching activities.
 3. The nature of the use, activity, or development or the characteristics of the site make public access requirements inappropriate due to health, safety, or environmental hazards; the proponent shall carry the burden of demonstrating by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site.
 4. An existing, new, or expanded road or utility crossing through shoreline jurisdiction shall not create the need for public access if the development being accessed or served by the road or utility is located outside of shoreline jurisdiction.
 5. The proposed use, activity, or development has security requirements that are not feasible to address through the application of alternative design features for public access such as offsite improvements, viewing platforms, and separation of uses through site planning and design.
 6. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.
 7. Safe and convenient public access already exists in the general vicinity of the site, and/or the Town, and agencies' plans show adequate public access at the property.
 8. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline and/or is deemed detrimental to threatened or endangered species under the Endangered Species Act.
- D. Public access shall be located and designed to respect private property rights, be compatible with the shoreline environment, protect ecological functions and processes, and protect aesthetic values of shoreline, and provide for public safety.
- E. For any development where public access is not required, shared community access may be allowed if there is no existing or planned public access along the shoreline identified in the Town and other agencies' plan. Where provided, community access shall be subject to all applicable development standards of this section. Shared community access is not required when any of the conditions under Section 6.1.7C applies.

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F. General Performance Standards:

1. Uses, activities and developments shall not interfere with the regular and established public use.
3. Shoreline substantial development or conditional uses shall minimize the impact on views of shoreline waterbodies from public land or substantial numbers of residences.
4. Proponents shall include within their shoreline applications an evaluation of a proposed use, activity, or development's likely adverse impact on current public access and future demands for access to the site. Such evaluation shall consider potential alternatives and mitigation measures to further the policies of this SMP and the provisions of this section.
5. Public access easements, trails, walkways, corridors, and other facilities may encroach upon any buffers or setbacks required in Section 6.3, Critical Areas, or under other provisions of this SMP, provided that such encroachment does not conflict with other policies and regulations of this SMP, and that no net loss of ecological function can be achieved. Any encroachment into a buffer or setback must be as close to the landward edge of the buffer as possible.
6. Public access facilities shall accommodate persons with disabilities unless determined infeasible by the Shoreline Administrator.

G. Trails and Levees:

1. Existing trails shall be maintained and enhanced.
2. Where public access is to be provided by dedication of public access easements along the OHWM, the minimum width of such easements shall be 10 feet. Total width of trail including shoulders shall be 10 feet maximum, or as required by Americans with Disabilities Act (ADA) regulations.
3. Pervious pavings are encouraged for all trails, and are required for trail shoulders.
4. Trails shall be located, constructed, and maintained to avoid, to the maximum extent possible, removal and other impacts to perennial native vegetation consistent with the Habitat Management Plan.

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H. Rights-of-Way, Easements, and Streets for Public Access:

1. The Town shall maintain public rights-of-ways or easements as a means of retaining public access on the shoreline. Proposed use, activity or developments shall maintain public access provided by public street ends, public utilities, and rights-of-way.
2. The public easements required pursuant to this section, for the purpose of providing access across or through the site to the OHWM, shall be maintained by the property owner to provide for reasonable and safe public access to the OHWM.

I. Signage:

1. Signage to be approved by the Shoreline Administrator shall be conspicuously installed along public access easements, trails, walkways, corridors, and other facilities to indicate the public's right of use and the hours of operation. The proponent shall bear the responsibility for establishing and maintaining such signs.
2. The Shoreline Administrator may require the proponent to post signage restricting or controlling the public's access to specific shoreline areas. The proponent shall bear the responsibility for establishing and maintaining such signage.

6.1.8 Flood Hazard Reduction

- A. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, as well as applicable guidelines of the FEMA and Section 6.3.7, Frequently Flooded Areas.
- B. The channel migration zone (CMZ) is considered to be that area of a stream channel that may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.
- C. The following uses and activities may be authorized within the CMZ or floodway:
 1. New development or redevelopment landward of existing legal publicly owned and maintained structures, such as publicly owned and maintained levees, that prevent active channel movement and flooding.
 2. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. The evaluation of cost differences between

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options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. For the purposes of this section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20 percent to the total project cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

3. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.
 4. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
 5. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.
 6. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.
 7. Existing and ongoing agricultural activities, provided that no new restrictions to channel movement are proposed.
- D. Existing structural flood hazard reduction measures, such as levees, may be repaired and maintained as necessary to protect legal uses on the landward side of such structures. Increases in height of an existing levee, with any associated increase in width, which may be needed to prevent a reduction in the authorized level of protection of existing legal structures and uses shall be considered an element of repair and maintenance.
- E. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.
- F. New development and Subdivisions. Approve new development or subdivisions when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures within the CMZ or floodway during the life of the development or use consistent with the following. (WAC 173-26-221(3)(c)(i)).
1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in Section 6.3.7, Frequently Flooded Areas and the Okanogan County Flood Damage and Prevention Ordinance (OCC Chapter 15.08).

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2. Channel Migration Zone (CMZ):
 - a. New development in the CMZ is allowed subject to:
 - i. Structures are located on an existing legal lot created prior to the effective date of this program.
 - ii. A feasible alternative location outside of the CMZ is not available on site.
 - iii. To the extent feasible, the structure and supporting infrastructure is located the farthest distance from the OHWM, unless the applicant can demonstrate that an alternative location is the least subject to risk.
 - b. New subdivisions in the CMZ may be allowed subject to:
 - i. All lots contain 5,000 square feet or more of buildable land outside of the CMZ.
 - ii. Access to all lots does not cross the CMZ.
 - iii. All infrastructure is located outside the CMZ except that an on-site septic system is allowed in the CMZ if: a feasible alternative location is not available on site, and to the maximum extent practical, the septic system is located the farthest distance from the OHWM.
- G. New public and private structural flood hazard reduction measures shall be approved when a scientific and engineering analysis demonstrates the following:
 1. that they are necessary to protect existing development.
 2. that nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible.
 3. that adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to ensure no net loss.
 4. that appropriate vegetation conservation actions are undertaken consistent with Section 6.1.5, Shoreline Vegetation Conservation.
- H. Flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the Shoreline Administrator.
- I. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security

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problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

- J. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal, or other flood hazard agency documents governing Town-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by the approving flood hazard agency.
- K. The removal of gravel or other riverbed material for flood management purposes shall be allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, and does not result in a net loss of ecological functions.
- L. Roads shall be located outside the floodway, except necessary crossings that shall be placed perpendicular to the waterbody as much as is physically feasible. New transportation facilities shall be designed so that the effective base flood storage volume of the floodplain is not reduced. The applicant shall provide all necessary studies, reports, and engineering analysis, which shall be subject to review and modification by the Town. If proposed transportation facilities effectively provide flood control, they shall comply with policies and regulations of this section.

6.2 SHORELINE MODIFICATIONS AND USE REGULATIONS

6.2.1 Agriculture

- A. Existing agricultural uses and future agriculture activities as allowed in the Comprehensive Plan shall be allowed.
- B. For shorelines used for agricultural practices, new or additional uses, activities, and development that are not existing and ongoing agriculture shall be subject to the following requirements:
 - 1. Such uses, activities, and development shall be allowed or permitted in a manner to ensure maintenance of ecological functions.
 - 2. Vegetation enhancement shall be required where the shoreline has been ecologically degraded.
 - 3. If the new use, activity, or development is more intensive than the existing and ongoing agriculture, no significant vegetation removal, development, or grading shall occur in

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the shoreline buffer except as necessary to accommodate low-intensity water-dependent uses and public access that sustains ecological functions.

- C. A Substantial Development Permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).
- D. SMP provisions shall apply in the following cases:
 - 1. New agricultural activities on land not meeting the definition of agricultural land.
 - 2. Expansion of agricultural activities on non-agricultural lands.
 - 3. Conversion of agricultural lands to other uses.
 - 4. Other development on agricultural land that does not meet the definition of agricultural activities.
 - 5. Agricultural development and uses not specifically exempted by the Act.
- E. New non-agricultural activities proposed on agricultural lands shall be consistent with the environment designation and Table 3: Shoreline Use and Modification Matrix, as well as other applicable shoreline use standards, e.g., Residential.
- F. Agricultural uses and development in support of agricultural uses shall be located and designed to ensure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.
- G. New feed lots are prohibited in critical area buffers. Feed lots shall be located in such a manner as to prevent waste runoff from entering surface water bodies or ground water.
- H. Agricultural uses and activities shall prevent and control erosion of soils and bank materials within shoreline areas. They shall minimize siltation, turbidity, pollution and other environmental degradation of watercourses and wetlands.
- I. Agricultural chemicals shall be applied in a manner consistent with BMPs for agriculture and Section 6.2.1.
- J. New or redeveloped agricultural activities shall provide a buffer of permanent native vegetation between all cropland or pasture areas and adjacent waters or wetlands pursuant to the critical areas provisions of this SMP.
- K. Agricultural development shall conform to applicable state and federal policies and regulations.
- L. New agricultural lands created by diking, draining, or filling wetlands or CMZs shall not be allowed.

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6.2.2 Fill and Excavation

- A. Fill waterward of the OHWM, except fill to support ecological restoration, requires a Conditional Use Permit and may be permitted only when:
 - 1. In conjunction with water-dependent or public access uses allowed by this SMP.
 - 2. In conjunction with a bridge or transportation facility of statewide significance for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.
 - 3. In conjunction with implementation of an interagency environmental clean-up plan to clean up and dispose of contaminated sediments.
 - 4. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Washington Department of Natural Resources.
 - 5. In conjunction with any other environmental restoration or enhancement project.
- B. Dredging for fill materials is prohibited except for projects associated with habitat restoration, or any other significant restoration effort approved by a shoreline conditional use permit.
- C. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven not feasible.
- D. Fill upland and waterward of the OHWM, including in non-watered side channels, shall be permitted only where it is demonstrated that the proposed action will not:
 - 1. Result in significant ecological damage to water quality, fish, and/or wildlife habitat.
 - 2. Significantly reduce public access to the shoreline or significantly interfere with shoreline recreational uses.
- E. Fill shall be of the minimum amount and extent necessary to accomplish the purpose of the fill.
- F. Excavation waterward of the OHWM or within wetlands shall be considered dredging for purposes of this Program.
- G. New development and siting design shall avoid the need for new and maintenance dredging.
- H. Fills or excavation shall not be located where shore stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated, as applicable.

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- I. Fills and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

6.2.3 In-Stream Structures

- A. The North and West forks of Salmon Creek flow into Conconully Reservoir and their mouths are within the boundaries of this SMP. In-stream structures are those structures placed by humans within a stream or river waterward of the OHWM that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, structures primarily intended for fisheries management, or other purposes. Docks, piers, and marinas are not regulated as "in-stream structures" under this section of the SMP. See the 6.2.8, Transportation: Trails, Roads, and Parking section and the 6.2.9, Utilities section of this SMP for regulations governing road and utility crossings of streams.
- B. General:
 1. The location, planning and design of in-stream structures shall be compatible with the following:
 - a. the full range of public interests, demand for public access to shoreline waters; desire for protection from floods; and need for preservation of historical and cultural resources;
 - b. protection and preservation of ecosystem-wide processes and ecological functions, including, but not limited to, fish and wildlife, with special emphasis on protecting and restoring priority habitats and species, and water resources and hydro geological processes.
- C. Structures shall be designed, located, and constructed consistent with mitigation sequencing principles in Section 6.1.4, Environmental Protection and Section 6.3, Critical Areas, and as otherwise limited by floodplain regulations found in the Town's SMP, Section 6.1.8 for Flood Hazard Reduction and Section 6.3.7, Frequently Flooded Areas.
- D. Structures shall be designed and located to minimize removal of riparian vegetation and, if applicable, to return flow to the stream in as short a distance as possible.
- E. In-stream structures shall provide for adequate upstream and downstream migration of resident fish, as applicable, and shall not adversely affect salmonid fish species or adversely modify salmonid fish habitat, as applicable.
- F. Utilities and transmission lines shall be located so as to minimize obstruction or degradation of views, and comply with applicable provisions of the Utilities section of this SMP.

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- G. Mitigation shall be required of the proponent for the loss of ecological functions and processes pursuant to Section 6.1.4, Environmental Protection and Section 6.3, Critical Areas. No net loss in function, value, or acreage shall occur from such development.

6.2.4 Recreational Development

A. General Preferences are as follows:

1. Recreational uses and facilities shall include features that relate to access, enjoyment, and use of the Conconully shorelines.
2. Both passive and active shoreline recreation uses are allowed consistent with the Town's Comprehensive Plan.
3. Water-oriented recreational uses and activities are preferred in shoreline jurisdiction. Water-dependent recreational uses shall be preferred as a first priority and water-related and water-enjoyment recreational uses as a second priority.
4. Existing passive recreational opportunities, including nature appreciation, non-motorized trails, environmental interpretation, and native habitat protection, shall be maintained.
5. Preference shall be given to the development and enhancement of public access to the shoreline to increase fishing and other water-related recreational opportunities where feasible.

B. General Performance Standards:

1. The potential adverse impacts of all recreational uses shall be mitigated and adequate provisions for shoreline rehabilitation shall be made part of any proposed recreational use or development to ensure no net loss of shoreline ecological function.
2. Sites with fragile and unique shoreline conditions, such as high-quality wetlands and wildlife habitats, shall be used only for non-intensive recreation activities, such as trails, viewpoints, interpretive signage, and similar passive and low-impact facilities that result in no net loss of shoreline ecological function, and do not require the construction and placement of permanent structures.
3. In approving shoreline recreational developments, the Town shall ensure that the development will maintain, enhance, or restore desirable shoreline features including unique and fragile areas, scenic views, and aesthetic values.

- C. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths, and equestrian, as applicable. New motorized vehicle access shall be located and managed to protect riparian and wetlands habitat functions and value.

- D. Recreational development shall be consistent with provisions of Section 6.1.5, Shoreline Vegetation Conservation and Section 6.3, Critical Areas.

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- E. Accessory uses and support facilities such as maintenance facilities, utilities, and other non-water-oriented uses shall be consolidated and located in upland areas outside shoreline, wetland, and riparian buffers unless such facilities, utilities, and uses are allowed in shoreline buffers based on the regulations of this SMP.
- F. Recreational facilities shall make adequate provisions, such as screening, landscaping buffer strips, fences, and signs, to prevent trespass upon adjacent properties and to protect the value and enjoyment of adjacent or nearby private properties and natural areas, as applicable.
- G. Recreational structures are only allowed to be built over water when they provide public access or facilitate a water-dependent use and shall be the minimum size necessary to accommodate the permitted activity.
- H. Recreational development shall minimize effective impervious surfaces in shoreline jurisdiction and incorporate low-impact development techniques.

6.2.5 Residential Development

- A. Single-family residential development is a preferred use when it is developed in a manner consistent with pollution control and preventing damage to the natural environment.
- B. Residential development shall be located and constructed to result in no net loss of shoreline ecological function. No net loss of shoreline ecological functions shall be ensured through the implementation of buffers specified in Section 6.3, Critical Areas, and other provisions of this SMP related to shoreline stabilization, vegetation management, and on-site sewage disposal.
- C. Lots for residential use shall have a maximum density consistent with the Town's Comprehensive Plan.
- D. Accessory uses and structures shall be located outside of the riparian buffer, unless the structure is or supports a water-dependent use. Storage structures to support water-related uses are not water-dependent uses and therefore, shall be located outside of the riparian buffer.
- E. All residential development shall be located or designed in such a manner as to prevent measurable degradation of water quality from stormwater runoff. Adequate mitigation measures shall be required and implemented where there is the reasonable potential for such adverse effect on water quality.
- F. New shoreline residences and appurtenant structures shall be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff

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walls and other shoreline stabilization and flood control structures are not necessary to protect proposed residences and associated uses.

- G. New floating residences and over-water residential structures shall be prohibited in shoreline jurisdiction.
- H. New residential development shall connect with sewer systems, when available.
- I. All new residential development shall be required to meet the vegetation management provisions contained in Section 6.1.5, Shoreline Vegetation Conservation and Section 6.3.5, Fish and Wildlife Habitat Conservation Areas.
- J. Residential development of more than two dwellings will be required to provide joint use or community docks, rather than individual docks.

6.2.6 Shoreline Habitat and Natural Systems Enhancement Projects

- A. Shoreline restoration and enhancement activities designed to restore or enhance shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.
- B. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the Town in achieving no net loss of shoreline ecological functions are preferred.
- C. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this SMP.
- D. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the shoreline restoration plan.
- E. Habitat expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:
 - 1. The project will not adversely impact spawning, nesting, or breeding fish and wildlife habitat conservation areas.
 - 2. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected.
 - 3. Water quality will not be degraded.
 - 4. Flood storage capacity will not be degraded.
 - 5. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated.

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- F. The Town shall review the projects for consistency with this SMP in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant (see Section 9.1.5, Exemptions from Shoreline Substantial Development Permits and WAC 173-27-040 (C)(I)).

6.2.7 Shoreline Stabilization

- A. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.
- B. New shoreline stabilization for new development is prohibited unless it can be demonstrated that the proposed use cannot be developed without shore protection or is necessary to restore ecological functions or hazardous substance remediation.
- C. Proposed designs for new or expanded shoreline stabilization shall be designed in accordance with applicable state guidelines, must use best available science, must document that alternative solutions are not feasible or do not provide sufficient protection; must demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and be certified by a qualified professional.
- D. Land subdivisions and lot line adjustments shall be designed to ensure that future development of the newly created lots will not require structural stabilization for subsequent development to occur.
- E. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities, etc., is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three (3) years as a result of shoreline erosion caused by wind/wave action or other hydraulic forces, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.
- F. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, irrigation, and utility systems from erosion caused by stream undercutting or wave action; provided, that the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure unless the facility was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. Proposed designs for new or expanded shore stabilization shall be in accordance with applicable state guidelines and certified by a qualified professional.

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- G. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
- H. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 will be authorized through a Shoreline Exemption. Stabilization projects that are not part of such a fish enhancement project will be regulated by this SMP.
- I. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using the best available science.
- J. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using the best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.
- K. Standards for new stabilization structures when found to be necessary include limiting the size to minimum, using measures to ensure no net loss of shoreline ecological functions, using soft approaches, minimizing or avoiding impacts to sediment transport, and using biotechnical bank stabilization techniques unless those are demonstrated to be infeasible or ineffective before implementing "hard" structural stabilization measure.

6.2.8 Transportation: Trails, Roads, and Parking

- A. New or expanded motor vehicle transportation facilities shall not be located within shoreline jurisdiction, unless:
 - 1. The proponent demonstrates that no feasible upland alternatives exist.
 - 2. The project represents the minimum development necessary to serve another specific, localized, and permitted shoreline use.
 - 3. In the case of a water crossing, the proponent demonstrates that the project is necessary to further a substantial public interest.
- B. When new roads or road expansions are unavoidable in shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following:
 - 1. Meet mitigation sequencing provisions of Section 6.1.4, Environmental Protection.
 - 2. Avoid adverse impacts on existing or planned water-oriented uses.
 - 3. Set back from the OHWM to allow for a usable shoreline area for vegetation conservation and any preferred shoreline uses unless infeasible.
 - 4. Minimize grading, vegetation clearing, and alterations of the natural topography.
 - 5. Use BMPs for preventing erosion and degradation of surface water quality.

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- C. Improvements to existing motor vehicle facilities shall not interfere with pedestrian and bicycle access, and shall whenever possible, provide for expansion and enhancement of pedestrian and bicycle transportation facilities.
- D. The development, improvement, and expansion of pedestrian and bicycle transportation facilities are allowed within all environments. Such transportation facilities are a preferred use wherever they are compatible with the natural character, resources, and ecology of the shoreline.
- E. Pedestrian and bicycle transportation facilities shall be designed, located, and constructed consistent with the policies and regulations for public access as provided in Section 6.1.7, Public Access.
- F. Parking facilities are not a water-dependent use and shall only be permitted in the shoreline jurisdiction to support an authorized use where it can be demonstrated to the satisfaction of the Shoreline Administrator that there are no feasible alternative locations away from the shoreline. Parking as a primary use shall not be allowed in any shoreline jurisdiction. Accessory parking facilities shall be subject to the same permit type as the primary use.
- G. Accessory parking facilities shall be located 50 feet upland of the edge of the riparian vegetation corridor and planned to avoid or minimize adverse effects on unique or fragile shoreline features and shall not result in a net loss of shoreline ecological functions or adversely affect existing or planned water-dependent uses. Parking facilities shall be located upland of the principal structure, building, or development they serve, and preferably outside of shoreline jurisdiction, except:
 - 1. Where the proponent demonstrates that an alternate location would reduce adverse impacts on the shoreline and adjacent uses;
 - 2. Where another location is not feasible; and/or
 - 3. Except when ADA standards require otherwise. In such cases, the applicant shall demonstrate use of measures to reduce adverse impacts of parking facilities in shoreline jurisdiction, such as low-impact development techniques, buffering, or other measures approved by the Shoreline Administrator
- H. Parking facilities shall be landscaped in a manner to minimize adverse visual and aesthetic impacts on adjacent shoreline and abutting properties.
- I. All forms of transportation facilities shall, wherever feasible, consolidate water crossings and make joint use of rights-of-way with existing or planned future primary utility facilities and other transportation facility modalities.
- J. Improvements to all existing transportation facilities shall provide for the reestablishment and enhancement of natural vegetation along the shoreline when appropriate.

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- K. Town shoreline crossings and culverts shall be designed to minimize adverse impacts on riparian and aquatic habitat and shall allow for fish passage. See Section 6.3.5, Fish and Wildlife Habitat Conservation Areas for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.

6.2.9 Utilities

- A. Expansion of existing primary utility facilities within shoreline jurisdiction must demonstrate:
 - 1. The expansion is designed to protect adjacent shorelands from erosion, pollution, or other environmentally detrimental factors during and after construction.
 - 2. The project is planned to fit existing natural topography as much as practical and avoid alteration of the existing natural environment.
 - 3. Debris, overburden, and other construction waste materials shall be disposed of so as to prevent erosion or pollution of a waterbody.
- B. New primary utility facilities and expansions shall include provisions to control the quantity and quality of surface water runoff to natural waterbodies, using BMPs to retain natural flow rates. A maintenance program to ensure continued proper functioning of such new facilities shall be required.
- C. Applications for installation of utility facilities shall include the following (at a minimum):
 - 1. Reason why the utility facility must be in shoreline jurisdiction.
 - 2. Alternative locations considered and reasons for their elimination.
 - 3. Location of the same, similar, or other utility facilities in the vicinity of the proposed project.
 - 4. Proposed method(s) of construction.
 - 5. Plans for reclamation of areas to be disturbed during construction.
 - 6. Landscape plans.
 - 7. Methods to achieve no net loss of ecological function and minimize clearing of native vegetation.
 - 8. Consistency with Town comprehensive plans for utilities, where such plans exist.
- D. Where feasible, utilities shall be consolidated within a single easement and utilize existing rights-of-way. Any utility located within property owned by the utility, which must of necessity cross shoreline jurisdiction shall be designed and operated to reserve the option of general public recreational usage of the right-of-way in the future. This option shall be exercised by the public only where:
 - 1. The public will not be exposed to dangers from the utility equipment; and
 - 2. The utility itself will not be subjected to unusual risks of damage by the public.

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- E. In areas where utilities must cross shoreline jurisdiction, they shall do so by the most direct route feasible, unless such a route would negatively affect an environmentally critical area, or obstruct public access to the shoreline. See Section 6.3.5, Fish and Wildlife Habitat Conservation Areas for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.
- F. Utility facilities shall be designed and located in a manner that protects scenic views and minimizes adverse aesthetic impacts.
- G. New utilities which must be constructed across shoreline jurisdiction in previously undisturbed areas must submit a mitigation plan demonstrating the restoration of the shoreline to at least its existing condition. Upon completion of utility installation or maintenance, any disturbed areas shall be regraded to be compatible with the natural terrain of the area and revegetated with appropriate native plants to prevent erosion.
- H. All underwater pipelines or those paralleling the waterway transporting liquids potentially injurious to aquatic life or water quality shall be prohibited, unless no other alternative exists to serve a public interest. In those limited instances where permitted, shut-off valves shall be provided at both sides of the waterbody, except for public sanitary sewers of a gravity or siphon nature. In all cases, no net loss of ecological functions shall be maintained.
- I. Where utilities cannot cross a shoreline waterbody via a bridge or other existing water crossing, the utilities shall evaluate site-specific habitat conditions and demonstrate whether impacts can be mitigated to negatively impact substrate, or whether utilities will need to be bored beneath the waterbody such that the substrate is not disturbed. Construction of pipelines placed under aquatic areas shall be placed in a sleeve to avoid the need for excavation in the event of a failure in the future.
- J. Minor trenching to allow the installation of necessary underground pipes or cables is allowed if no alternative, including boring, is feasible, and if:
 - 1. Impacts on fish and wildlife habitat are avoided to the maximum extent possible.
 - 2. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
 - 3. Appropriate BMPs are employed to prevent water quality impacts or other environmental degradation.
- K. Utility installation and maintenance operations shall be conducted in a manner that does not negatively affect surface water quality or quantity. Applications for new utility projects in shoreline jurisdiction shall include a list of BMPs to protect water quality.

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6.2.10 Boating Facilities

- A. When establishing regulation of motorized vs. non-motorized uses, hours and other limitations on boating, the regulations shall be based, in part, on protection of shoreline functions and values while not impacting recreation and tourism.
- B. Mitigation for any adverse development impacts of boating facilities may be required. On-site mitigation shall be preferred; however, in cases in which meaningful on-site mitigation is not feasible, off-site mitigation may be allowed. In such instances a mitigation management plan shall be required, and shall specify a suitable mitigation site. Adverse development impacts to adjacent properties shall not be allowed.
- C. New boating facilities shall be consistent with the applicable local comprehensive and recreation plans.
- D. For commercial and public boating facilities, the perimeter of parking and storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas, using primarily native, self-sustaining vegetation. Landscaping along the waterward may also be required. The permit application submittal shall identify the size, location, and species of plants that will be used.
- E. Boating facilities shall be located where no or minimal shoreline stabilization will be necessary and where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other maintenance activities.
- F. Boating facility design shall minimize interference with geohydraulic processes and significant disruption of existing shore forms.
- G. Parking facilities shall be located outside shoreline jurisdiction, or, if that is not feasible, shall be located landward of the structure setback provided in Section 6.3.
- H. Boating facilities, including boat lifts, and navigation aids shall be positioned so as not to be a hazard to navigation.
- I. All boating facilities shall be in compliance with the applicable critical area regulations. A habitat management report shall be prepared according to the provisions of Section 6.3.5G. Only when such a report has established conclusively that the dock will cause no net loss of shoreline ecological functions shall the dock be permitted.
- J. Boating facilities shall provide public access in accordance with Section 6.1.7.

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- K. Boating facilities shall be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials is encouraged.
- L. The Town shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington departments of Ecology, of Fish and Wildlife, and of Health; and shall make available to those agencies *Shoreline Inventory and Characterization* and maps developed as part of this master program. The local government with jurisdiction shall consider the comments received from those agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.
- M. Dock-Specific Regulations. The regulations that follow are applicable to all docks, shared moorage facilities, and other overwater boating facilities, and the word "dock" shall apply to all such facilities.
1. The Administrator shall require and use the following information in his or her review of proposals for docks:
 - a. Description of the proposed structure, including its size, location, design, materials, and any shoreline stabilization or other modifications required by the project.
 - b. Proposed location of the dock relative to property lines and the OHWM.
 - c. Orientation of the dock relative to neighboring docks.
 - d. Anticipated impacts on views and on access to existing docks, and other reasonably foreseeable impacts on adjacent properties.
 - e. Any provisions for public access, enjoyment and use of the water and shorelines.
 2. For the installation of seasonal docks, the Administrator shall give the landowner the following choices for application requirements:
 - a. The landowner shall submit a Joint Aquatic Resource Permits Application (JARPA) form and the information provided in Section 6.2.10(O)(1). The Administrator will then circulate that information to the appropriate agencies for review and indication of additional permits. Or:
 - b. The applicant shall contact the Department of Natural Resources, Ecology, Department of Fish and Wildlife, and the U.S. Army Corps of Engineers directly to discover if additional permits are required from those agencies for seasonal docks.
 3. Docks shall not significantly interfere with the use of navigable waters or with public use of shorelines. The length of any dock shall be the minimum necessary to assure navigability and protect public use of the water body. In no case shall the length of a dock exceed 80 feet from the OHWM or the point at which the depth of the water exceeds 7 feet during high water. On "T" or "L" shaped docks, the length of the

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extension or extensions perpendicular to the main body of the dock shall not exceed 50 percent of the length of the lot property line at the OHWM, or the upland property line adjacent to the lake. Docks may be prohibited where necessary to protect navigation or public use of the water body. Docks not attached to the shoreline may be allowed where the dock serves a water-dependent or water-oriented use and measures have been taken to reduce the hazard to navigation.

4. All new and improved docks shall be constructed and maintained in a safe condition. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. During maintenance, existing treated wood timbers and pilings shall be replaced with alternative materials, such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents leaching of contaminants into surface water.
5. New docks must have unobstructed grating over at least 50 percent of the surface area; grating material must have at least 60 percent open space. Skirting is prohibited. When existing structures undergo maintenance or repair, the replaced portions must meet these standards.
6. Abandoned or unsafe docks shall be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the local government with jurisdiction may, following notice to the owner, abate the structure if the owner fails to do so within 90 days. Said government may impose a lien on the associated shoreline property in an amount equal to the cost of the abatement.
7. No over-water application of preservative treatment or other chemical compounds shall be permitted. Docks may be painted provided brush application is used and BMPs are followed to prevent paint from coming in contact with the water.
8. Bulk storage for gasoline, oil, and other petroleum products is prohibited on docks.
9. No more than two boat lifts shall be allowed on any one dock.
10. All new permanent docks shall be designed and constructed in compliance with the following standards:
 - a. Pilings must be structurally sound prior to placement in the water.
 - b. Piles, floats, or other materials in direct contact with the water must be approved by applicable state agencies, including the Washington Department of Fish and Wildlife and, in the case of navigable waters, the Washington Department of Natural Resources.
 - c. New floating docks shall include stops to keep the floats off the bottom of the water body at low water level.
 - d. Overhead wiring or plumbing is not permitted on docks.

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- e. Lighting shall be the minimum necessary to locate the dock at night and shall focus downward to minimize glare. Any dock extending more than 50 feet beyond the OHWM shall have white lights marking the outer dimensions. In all cases, solar-powered lights shall be preferred.
- f. New docks with feet or plates that rest on the lakebed or streambed are preferred over those requiring excavation and footings.
- g. No new dock may exceed 6 feet in width.
- h. Dock design, placement, and orientation shall allow for access to existing docks in the vicinity and shall minimize impacts on adjacent properties, including impacts on views.

11. All seasonal docks shall be subject to the following standards:

- a. Seasonal docks and rafts may be removed during periods when they are not in use.
- b. Seasonal docks shall be no more than 6 feet wide.
- c. Floating structures and boats must not rest on the substrate. Specific requirements include:
 - 1. New overwater structures must be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding, keeping the bottom of the structure at least 1.5 feet (0.5 meters) above the level of the substrate.
- d. Tires are prohibited as part of above and below water structures (e.g., floatation, fenders, decking). Existing tires must be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure.
- e. For new docks, floatation material must be encapsulated within a shell that prevents breakup or loss of the floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated floatation material must be replaced.

N. All residential moorage facilities shall be subject to the following standards:

- 1. New residential subdivisions or planned developments containing five or more waterfront lots along a shoreline of statewide significance shall be required to provide shared moorage facilities if any moorage facilities are provided.
- 2. All multi-family residences proposing to provide moorage facilities shall be limited to a single shared moorage facility, provided that the Administrator may authorize more than one shared moorage facility if, based on conditions specific to the site, a single facility would be inappropriate for reasons of safety, security, or impact to the shoreline designation; and if the additional facility or facilities will have no net impact on shoreline ecological resources.

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3. For existing residential lots, no more than one dock shall be permitted for each shoreline lot.
4. The length of any dock shall be the minimum necessary to accomplish moorage for the intended boating use and shall be only long enough to accomplish moorage for one boat for each residence served.
5. A dock over 480 square feet or 80 feet in length is allowed only by variance in all shoreline designations.
6. Side yard setbacks: Docks shall be set back a minimum of 5 feet from side property lines, except that shared moorage facilities may be located adjacent to or upon a side property line when mutually agreed to by contract or covenant with the owners of both properties. A copy of the contract or covenant must be recorded with the Town Auditor and filed with the application for permit or shoreline exemption.

6.3 CRITICAL AREAS

6.3.1 General Provisions

A. Statutory Authorization:

1. The Town shall regulate in the shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more critical areas, consistent with the provisions of Section 6.3, Critical Areas.

B. Purpose:

1. The purpose of these regulations is to designate ecologically sensitive and hazardous areas and to protect those areas and their functions and values within Shoreline Jurisdiction. These regulations are intended to:
 - a. Implement the Town Comprehensive Plan (as amended) and comply with the requirements of the Act;
 - b. Protect critical areas through the application of the most current, accurate, and complete scientific or technical information available as determined according to WAC 173-26-201(2)(a), and in consultation with state and federal agencies and other qualified professionals;
 - c. Protect the general public, resources (including cultural and historic resources), and facilities from injury, loss of life, property damage, or financial loss due to erosion, landslides, pollution, steep slope failure, ground shaking or seismic activity;
 - d. Protect the general public, resources, and facilities from injury, loss of life, property damage, or financial loss due to inundation of frequently flooded areas;
 - e. Protect unique, fragile and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;

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- f. Prevent cumulative adverse environmental impacts to water quality and availability, wetlands, and fish and wildlife habitat.

C. Designation of Critical Areas:

1. The Town shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas located within the shoreline jurisdiction, consistent with the most current, accurate, and complete scientific or technical information available and the provisions herein.
2. The incorporated area of the Town is hereby divided into the following critical areas, where appropriate:
 - a. Wetlands
 - b. Critical Aquifer Recharge Areas
 - c. Fish and Wildlife Habitat Conservation Areas
 - d. Geologically Hazardous Areas
 - e. Frequently Flooded Areas

D. Data Maps:

1. The data maps maintained by the Town shall be used as a general guide to determine the location and extent of critical areas within the corporate limits. The data maps shall be consulted when a development application is received to determine if the site is within any areas shown as resource lands or critical areas. The data maps are for reference only and not regulatory in nature. It shall be the responsibility of the applicant to notify the Town of any critical areas that are on or near the site of the development application. The exact location of critical areas shall be determined by a site analysis conducted by a qualified professional using the requirements found within this Chapter.
2. In addition to those maps and references identified in the relevant sections of this Chapter, the following maps and documents may be used:
 - a. Critical area maps included in Comprehensive Plans of the County;
 - b. Maps and reference documents in the County SMP Inventory, Characterization and Analysis report, as applicable;
 - c. USGS. Topographic Quadrangle Maps;
 - d. Aerial photos;
 - e. Soil Survey of Okanogan County, Washington by the U.S. Department of Agriculture (USDA), Soil Conservation Service;
 - f. NWI maps; and
 - g. WDFW's Priority Habitats & Species maps.

E. Interpretation of Data Maps:

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1. The Shoreline Administrator is charged with administration of this title for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the Shoreline Administrator's determination according to the provisions of Section 9.1.12, Appeals.
2. All development applications are required to show the boundary(ies) of all resource lands and critical areas on a scaled drawing prior to the development application being considered complete for processing purposes.
3. Maps and reference documents in the County SMP Inventory, Analysis, and Characterization report, as applicable.

F. Applicability:

1. This chapter applies to all real property within the shoreline jurisdiction of the corporate limits of Conconully, Washington, as it is now configured or may, from time to time, be altered.
2. These critical areas regulations shall apply to critical areas located within the shoreline jurisdiction.
3. No action shall be taken by any person or entity that results in any alteration of any critical area located within the shoreline jurisdiction except as consistent with the purposes, objectives and intent of these regulations.
4. Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area.
5. These regulations shall apply concurrently with review conducted under SEPA, as locally adopted. Any conditions required pursuant to these regulations shall be included in the SEPA review and threshold determination.

G. Exemptions:

1. The activities listed below are listed from WAC 173.27.040 and are exempt from the provisions of this chapter. Exempt activities shall be conducted using all reasonable methods to avoid impacts to critical areas. The decision to declare an activity exempt shall be an Administrative Decision, as set forth in Section 6.3.1 (L). Exemption from the chapter shall not be considered permission to degrade a critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be repaired at the responsible party's expense.
 - a. Emergency modification or construction necessary to protect life or real property from immediate damage by natural hazards innate to critical areas. An emergency is an unanticipated event or occurrence which poses an imminent threat to public health, safety, or the environment, and which requires immediate action within a time too short to allow full compliance. Once the threat to the public health, safety, or the environment has dissipated, the actions undertaken as a result of the previous

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emergency shall be subject to and brought into full compliance with these regulations.

- b. Normal maintenance or repair of existing buildings, structures, roads, utilities, levees, or drainage systems, provided the activity does not further alter, encroach upon, or increase impacts to critical areas or associated buffers.
- c. Existing agricultural activities normal or necessary to general farming conducted according to industry-recognized BMPs, including the raising of crops or the grazing of livestock.
- d. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts to critical areas shall be minimized and areas disturbed by such activity shall be immediately restored as directed by the Shoreline Administrator to ensure no loss of functions and values.
- e. Passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling; provided the activity does not alter the critical area or its buffer by changing drainage patterns, topography, water conditions or water sources.

H. Permitting:

1. All applications for permits to conduct activities having a possible significant impact on critical areas that are located on or near a project site must identify the areas affected and make an estimate of the probable impact. The Town shall deny all requests for permits that would result in a net loss of ecological functions, those activities degrading a wetland or fish and/or wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geologic hazards, which would tend to aggravate geologic hazards, or which would harm critical recharging areas for aquifers. The Town may, however, grant permits that include mitigation measures if the mitigation measures adequately protect the ecological processes and functions of the critical area and people involved. In granting a permit that includes mitigation measures, the most current, accurate, and complete scientific or technical information available, which shall be determined utilizing the criteria set out in WAC 173-26-201(2)(a), shall be used to develop and approve the mitigation measures (Section 6.3.2).

I. Determination:

1. Each development permit shall be reviewed to determine if the proposal is within a critical area or critical area buffer. Town staff shall use maps and data maintained by the Town and a site inspection if appropriate.
2. If it is determined that a critical area(s) is present, additional assessments prepared by a qualified biologist best suited for the type of identified critical area(s) may be required.

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3. In cases related to geohazards, the assessment shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; a conclusion as to whether further analysis is necessary; and be signed by and bear the seal of the engineer or geologist that prepared it.
 4. When a geotechnical report is required it shall include a certification from the engineer preparing the report, including the engineer's professional stamp and signature, stating all of the following:
 - a. The risk of damage from the project, both on- and off-site.
 - b. The project will not materially increase the risk of occurrence of the hazard.
 - c. The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.
 5. All mitigation measures, construction techniques, recommendations, and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.
 6. A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.
- J. Critical Areas Review Process:
1. All land use and building permits shall require that applicants disclose activities within 200 feet of a known or suspected critical area. The provisions of this chapter shall apply to any such proposals. The review process shall proceed as follows:
 - a. Pre-application meeting/site visit. Upon receiving a land use or development proposal, the Shoreline Administrator shall schedule a pre-application meeting and/or site visit with the proponent. The purpose is to decide whether the proposal is likely to affect the ecological functions of critical areas or pose health and safety hazards. At the meeting, the Shoreline Administrator will:
 - i. Provide the applicant with the requirements of this chapter and other applicable local regulations, including but not limited to comprehensive plans, zoning maps, and overlays.
 - ii. Review critical areas maps and other available reference materials with the applicant.

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- iii. Outline the review and permitting processes.
 - iv. Work with the applicant to identify any potential concerns with regards to critical areas.
 - v. Provide the applicant with the necessary application materials and SEPA checklist form.
 2. Agency Consultation:
 - a. Because species populations and habitat systems are dynamic, agency consultation shall be required where activities are proposed within 200 feet of a designated Fish and Wildlife Habitat Conservation Area. The Shoreline Administrator shall consult with WDFW to determine the value of the site to priority habitats and species and determine if the Habitat Conservation Area has shifted.
 - b. Because site specific mapping has not been completed for many critical areas within the Town, staff may undertake agency consultation in any instance in which activities are proposed within 200 feet of a known or suspected critical area.
 3. Application and SEPA Checklist:
 - a. The applicant shall submit all relevant land use/development applications.
 - b. The applicant shall submit a completed SEPA Checklist, except in the following cases:
 - i. The use or activity has been found to be exempt from the provisions of these regulations, as described under the heading "Exemptions" above.
 - ii. The use or activity is categorically exempt from SEPA review.
 4. Determination of Need for Critical Areas Report: Based upon the pre-application meeting, application materials, SEPA Checklist, and in the case of Fish and Wildlife Habitat Conservation Areas, the outcome of the agency consultation, the Shoreline Administrator shall determine if there is cause to require a critical areas report. In addition, the Shoreline Administrator may use critical areas maps and reference materials, information and scientific opinions from appropriate agencies, or any reasonable evidence regarding the existence of critical area(s) on or adjacent to the site of the proposed activity. The determination of need for a critical areas report shall be an Administrative Decision, as set forth in Section 6.3.1 (L), of these regulations.
 5. Documentation and Notification: The Shoreline Administrator shall document the pre-application meeting and/or site visit, application and SEPA threshold determination, and any other steps or findings (including, in the case of Fish and Wildlife Habitat Conservation Areas, the agency consultation) used to decide whether a critical areas report shall be required. The applicant shall receive notice of the determination and any findings that support it.

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K. Critical Areas Report:

1. If the Shoreline Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to one or more critical areas, a critical areas report may be required. When required, the expense of preparing the critical areas report shall be borne by the applicant. The content, format and extent of the critical areas report shall be approved by the Shoreline Administrator.
2. The requirement for critical areas reports may be waived by the Shoreline Administrator if there is substantial evidence that:
 - a. There will be no alteration of the critical area(s) and/or the required buffer(s); and
 - b. The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this ordinance and the Town's comprehensive plan; and,
 - c. The minimum standards of this chapter will be met.
3. No critical areas report is required for proposals that are exempt from the provisions of this chapter as set forth under Section 9.1.5, Exemptions from Shoreline Substantial Development Permits, herein.
4. Every critical area report shall be completed by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the Shoreline Administrator.
5. At a minimum, a required critical areas report shall contain the following information:
 - a. Applicant's name and contact information; permits being sought, and description of the proposal.
 - b. A copy of the site plan for the development proposal, drawn to scale and showing:
 - i. Identified critical areas, buffers, and the development proposal with dimensions.
 - ii. Limits of any areas to be cleared.
 - iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - c. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site.
 - d. Identification and characterization of all critical areas within, or within 200 feet of, the project area or within any proposed buffer.
 - e. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site.
 - f. An analysis of site development alternatives.
 - g. A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to critical areas.

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- h. A mitigation plan as set forth in Section 6.3.2 of these regulations.
 - i. A discussion of the performance standards proposed to ensure that ecological functions of critical areas are protected and health and safety hazards associated with critical areas are precluded.
 - j. Financial guarantees proposed to ensure compliance with mitigation plan and performance standards.
 - k. Any additional information required for specific critical areas as listed in subsequent sections of these regulations.
6. The Shoreline Administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.
- L. Administrative Review:
- 1. Administrative Decisions. Where these regulations call for an Administrative Decision, the Shoreline Administrator shall submit his or her findings and preliminary decision to Town council members, as applicable and relevant state and federal agencies, for review at least 30 (thirty) days prior to making a final decision, and shall consider timely comments in making a final decision.
 - 2. Agency Review. In any case in which the Shoreline Administrator does not have adequate knowledge or training to determine the sufficiency and accuracy of information contained within a critical areas report or mitigation plan (whether or not an Administrative Decision is involved), said report or plan shall be submitted to qualified agencies (ex. Ecology) for review and recommendations prior to acceptance by the Town. Agency review should be completed within 90 (ninety) days of submittal to agency staff.
- M. Surety/Bonding:
- 1. If a development proposal is subject to mitigation, maintenance or monitoring plans, the Town, in a form acceptable to the Town Attorney, may require an assurance device or surety.
 - 2. When mitigation required pursuant to a development proposal is not completed prior to the Town final permit approval, such as final plat approval or final building inspection, the Town shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the Town. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the Town to ensure mitigation is fully functional.
 - 3. The bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater, and the cost of maintenance and monitoring for a 10-year period.

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4. The bond shall be in the form of an assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the Town attorney or other method acceptable to the Shoreline Administrator.
5. Bonds or other security authorized by this section shall remain in effect until the Town determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the Town for a minimum of 10 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
6. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

N. Appeals:

1. Any decision of the Shoreline chapter may be appealed according to the provisions of Section 9.1.12, Appeals. Such appeal shall be in writing and must be submitted to the Town within ten (10) days from the date of the decision.

6.3.2 General Performance Standards

A. The following general performance standards shall apply to activities permitted within critical areas or critical area buffers located within the shoreline jurisdiction. Additional standards may be necessary based on site specific considerations or proposed development impacts.

B. General Performance Standards:

1. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan.
2. Mitigation, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas.
3. Mitigation Sequencing. Mitigation plans shall include a discussion of mitigation alternatives (sequencing) as they relate to mitigation sequencing provisions of Section 6.1.4, Environmental Protection.
4. Mitigation Plan. When mitigation is required, the applicant shall submit for approval of a mitigation plan as part of the critical area report. The mitigation plan shall include:
 - a. A written report identifying mitigation objectives, including:
 - i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation objectives; identification of

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- critical area functions and values; and dates for beginning and completion of site compensation construction activities;
- ii. A review of the most current, accurate, and complete scientific or technical information available supporting the proposed mitigation and a description of the report authors professional qualifications.
 - iii. An analysis of the likelihood of success of the compensation project.
- b. Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met.
 - c. Written specifications and descriptions of the mitigation proposed, including, but not limited to:
 - i. The proposed construction sequence, timing, and duration.
 - ii. Grading and excavation details.
 - iii. Erosion and sediment control features.
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density.
 - v. Measures to protect and maintain plants until established.
 - d. A program for monitoring construction of the compensation project, and for assessing the completed project and its effectiveness over time. The program shall include a schedule for site monitoring and methods to be used in evaluating whether performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than 10 years.
 - e. Identify potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
 - f. Additional provisions as required for specific critical area types (e.g., wetlands, etc.)
5. Mitigation, maintenance, monitoring and contingency plans shall be implemented by the developer to protect critical areas and their buffers prior to the commencement of any development activities. Where mitigation is required herein, the following performance standards shall be met:
- a. Mitigation planting survival will be 100 percent for the first year, and 80 percent for each of the four (4) years following.
 - b. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Shoreline Administrator.

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- c. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional, as approved by the Shoreline Administrator. The design shall meet the specific needs of the vegetation, as may be applicable.
- d. Onsite monitoring and monitoring reports shall be submitted to the Town one (1) year after mitigation installation; three (3) years after mitigation installation; and five (5) years after mitigation installation. The length of time involved in monitoring and monitoring reports may be increased by the Shoreline Administrator for a development project on a case-by-case basis when longer monitoring time is necessary to establish or re-establish functions and values of the mitigation site. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the wetland management and mitigation plan have been satisfied
- e. Monitoring reports by the biologist must include verification that the planting areas have less than 20 percent total non-native/invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Okanogan County Noxious Weed Board, local conservation districts, or other applicable agencies.
- f. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
- g. Prior to site development and or building permit issuance, a performance surety agreement shall be submitted by the applicant and shall be reviewed and approved by the Town, including the town attorney. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and three monitoring visits and reports by a qualified professional biologist, including Washington state sales tax. The Town must approve the quote for said improvements.
- h. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of one-third for substantial conformance with the plan and conditions of approval. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the Town may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry-over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the appropriate hearing body to review

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conformance with the conditions of approval and to determine what actions may be appropriate.

C. Trails and Trail-related Facilities:

1. Construction of commercial, public, and private trails, and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within designated resource lands and critical areas, subject to the following minimum standards:
 - a. Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.
 - b. Trail facilities shall minimize the removal of trees, shrubs, snags, and important habitat features. Vegetation management performed in accordance with BMPs as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard.
 - c. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area.
 - d. All facilities shall be constructed with materials complementary to the surrounding environment.
 - e. Trail facilities that parallel the shoreline may be located in the outer 25 percent of the buffer area;
 - i. Commercial and public trails shall not exceed 10 feet in width.
 - ii. Private trails shall not exceed 4 feet in width.
 - f. Trails that provide direct shoreline access shall not exceed 4 feet in width and shall be kept to the minimum number necessary to serve the intended purpose.
 - g. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.
 - h. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

6.3.3 Wetlands

A. Designation:

1. Wetlands are those areas, designated based on the definitions, methods and standards set forth in the currently approved *Federal Wetland Delineation Manual* and supplements. Wetland delineations are valid for five (5) years, after such date the Town shall determine whether additional assessment is necessary. All areas within the Town meeting the wetland designation criteria in the *Federal Wetland Delineation Manual* and

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supplements are hereby designated critical areas and are subject to the provisions of this Chapter.

2. Wetlands shall be rated according to the Ecology wetland rating system found in the *Washington State Wetlands Rating System for Eastern Washington (Annotated Version)*, Washington State Department of Ecology Publication No. #04-06-030, October 2014; or as revised by Ecology. Other references for guidance and mitigations include *Wetland Mitigation in Washington State – Parts 1 and 2*, Washington Department of Ecology Publication #06-06-011a and b), March 2006); *Wetlands in Washington State- Volume 1: A Synthesis of the Science*, Washington State Department of Ecology Publication #05-06-006; and *Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands*, Washington State Department of Ecology Publication #05-06-008.

B. Classification:

1. Wetland Rating Classes shall be as follows:

- a. Category I Wetlands: Those wetlands scoring a "Category I" rating under the Ecology *Washington State Wetlands Rating System for Eastern Washington (Annotated Version)*, Publication #04-06-018, June 2014, as may be amended in the future (hereinafter referred to as the Ecology Wetlands Rating System).
- b. Category II Wetlands: Those wetlands scoring a "Category II" rating under the Ecology Wetlands Rating System.
- c. Category III Wetlands: Those wetlands scoring a "Category III" rating under the Ecology Wetlands Rating System.
- d. Category IV Wetlands: Those wetlands scoring a "Category IV" rating under the Ecology Wetlands Rating System.
- e. Irrigation-influenced Wetlands: Those wetlands that have resulted from irrigation system development and irrigated agriculture and that are not intentionally created. These wetlands are to be classified per Ecology Wetland Rating Classes Categories I - IV.
- f. Intentionally Created Artificial Wetlands: Wetlands and former wetland areas not regulated are those intentionally created artificial wetlands, or irrigation-influences wetlands that have dried up and are no longer functioning as a wetland due to changes in farming practices, or irrigation supply management and/or conservation measures.

C. Site Assessment Requirements for Wetlands:

In addition to the information described in Section 6.3.1K, the wetlands site assessment report shall include the following information:

1. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, soils, and vegetative

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characteristics of the wetland including U.S. Army Corps of Engineers delineation data sheets as applicable.

2. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.
3. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 200 feet of the project boundaries using the best available information.
4. For each wetland identified on-site and within 200 feet of the project site provide: the wetland rating per Wetland Ratings; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.
5. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative.
6. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.
7. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.
8. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
9. An evaluation of the functions of the wetland and adjacent buffer.
10. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
 - a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);
 - b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

D. Alteration and Impacts of Wetlands:



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1. A regulated wetland or its required buffer can only be altered if the wetlands site assessment pursuant to Section 6.3.3C shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect the wetland function, and maintain no net loss of wetland functions and values as a result of the overall project. Any alteration approved pursuant to this Section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland as described in Section 6.3.3E, below.
2. The following activities are regulated if they occur in a regulated wetland or its buffer:
 - a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
 - b. The dumping of, discharging of, or filling with any material.
 - c. The draining, flooding, or disturbing the water level or water table.
 - d. Pile driving.
 - e. The placing of obstructions.
 - f. The construction, reconstruction, demolition, or expansion of any structure
 - g. Activities that result in:
 - i. A significant change in water temperature.
 - ii. A significant change of physical or chemical characteristics of the sources of water to the wetland.
 - iii. A significant change in the quantity, timing or duration of the water entering the wetland.
 - iv. The introduction of pollutants.
3. Stormwater discharge: Stormwater discharges to wetlands shall be controlled and treated to provide all known and reasonable methods of prevention, control, and treatment as mandated in the State Water Quality Standards, Chapter 173-201A WAC, as required by state law, and consistent with the *Ecology Stormwater Manual for Eastern Washington*. Changes in hydrology that negatively impact functions of a wetland shall not be permitted, except for intentionally created artificial wetlands, or irrigation influenced wetlands that have been modified so that it no longer has wetland characteristics due to changes in farming practices or irrigation supply management and/or conservation measures. Potential changes may include, but not be limited to, flooding of plant communities resulting in changes in composition, flooding of nests, or associated drawdowns that dehydrate nests, particularly amphibian eggs.
4. Exceptions to Mitigation Requirements: Requirements for mitigation do not apply under the following circumstances:

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- a. When a wetland alteration is intended exclusively for the enhancement, rehabilitation or restoration of an existing regulated wetland and the proposal will not result in a loss of wetland function and value, subject to the following conditions:
 - i. The enhancement or restoration project shall not be associated with a development activity.
 - ii. An enhancement or restoration plan shall be submitted for site plan review. The restoration or enhancement plan must include the information required under Section 6.3.3C.
 - iii. When an artificial wetland is intentionally created from a non-wetland site, or a former irrigation influenced wetland was modified so that it no longer has wetland characteristics due to changes in farming practices or irrigation supply management and/or conservation measures

E. Development Standards:

1. Lights shall be directed away from the wetland.
2. Activities that generate noise shall be located away from the wetland, or noise impacts shall be minimized through design or insulation techniques.
3. Toxic runoff from new impervious surface area shall be directed away from wetlands.
4. Treated stormwater runoff may be allowed into wetland buffers. Channelized flow should be prevented.
5. Use of pesticides, insecticides, and fertilizers within one hundred 50 feet of wetland boundary shall be limited and follow BMPs.
6. The outer edge of the wetland buffer shall be planted with dense native vegetation and/or fencing to limit pet and human disturbance.
7. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use.

Table 5: Land Use Intensity Table: Types of Proposed Land Use

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	Commercial Urban Industrial Institutional Retail sales Residential (more than 1 unit/acre) High-intensity recreation (golf courses, ball fields, etc.)

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Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
Moderate	Residential (1 unit/acre or less) Moderate-intensity open space (parks with biking, jogging, etc.) Paved driveways and gravel driveways serving 3 or more residences Paved trails
Low	Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) Timber management Gravel driveways serving 2 or fewer residences Unpaved trails Utility corridor without a maintenance road and little or no vegetation management.

Table 6: Buffer Widths

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<i>Category IV Wetlands (For wetlands scoring less than 15 points or more for all functions)</i>		
Score for all 3 basic functions is less than 30 points	Low – 25 ft Moderate – 40 ft High – 50 ft	No recommendations at this time
<i>Category III Wetlands (For wetlands scoring 16-18 points or more for all functions)</i>		
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
Not meeting above characteristic	Low – 40 ft Moderate – 60 ft High – 80 ft	No recommendations at this time
<i>Category II Wetlands (For wetlands that score 19-21 points or more for all functions or having the “Special Characteristics” identified in the rating system)</i>		
High level of function for habitat (score for habitat 29-36 points)	Low – 100 ft Moderate – 150 ft High – 200 ft	Maintain connections to other habitat areas.
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time

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Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
High level of function for water quality improvement and low for habitat (score for water quality 24-32 points; habitat less than 20 points)	Low - 50 ft Moderate - 75 ft High - 100 ft	No additional surface discharges of untreated runoff
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions	Riparian forest wetlands need to be protected at a watershed or subbasin scale Other protection based on needs to protect habitat and/or water quality functions
Not meeting above characteristic	Low - 50 ft Moderate - 75 ft High - 100 ft	No recommendations at this time
Vernal Pool	Low - 100 ft Moderate - 150 ft High - 200 ft Or develop a regional plan to protect the most important vernal pool complexes - buffers of vernal pools outside protection zones can then be reduced to: Low - 40 ft Moderate - 60 ft High - 80 ft	No intensive grazing or tilling of wetland
<i>Category I Wetlands (For wetlands that score 22 points or more for all functions or having the "Special Characteristics" identified in the rating system)</i>		
Natural Heritage Wetlands	Low - 125 ft Moderate - 190 ft High - 250 ft	No additional surface discharges to wetland or its tributaries. No septic systems within 300 ft of wetland. Restore degraded parts of buffer.

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Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
High level of function for habitat (score for habitat 29-36 points)	Low – 100 ft Moderate – 150 ft High – 200 ft	Restore degraded parts of buffer. Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
High level of function for water quality improvement (24-32 points) and low for habitat (less than 20 points)	Low – 50 ft Moderate – 75 ft High – 100 ft	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft	No recommendations at this time

8. Wetland buffer zones shall be retained in their natural condition. Wetland buffers shall not be mowed. Where buffer disturbances are unavoidable during adjacent construction, re-vegetation with native plant materials will be required.
9. Standard buffer widths shall be measured on the horizontal from the wetland boundary as surveyed in the field. Standard buffer widths may be modified by the review authority for a development proposal by averaging buffer widths based on a report submitted by the applicant and prepared by a qualified professional approved by the Shoreline Administrator (e.g. wetland biologist), and shall only be allowed where the applicant demonstrates all of the following:
 - a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
 - b. The designated wetland contains variations in sensitivity due to existing physical characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area;
 - c. The width averaging will not adversely impact the designated wetland’s functional value;

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- d. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.
- e. The buffer at its narrowest point is never less than three-quarters of the required width.

10. Mitigation ratios shall be used when impacts to wetlands cannot be avoided. The mitigation ratios by wetland type are an area replacement ratio of:

Table 7: Mitigation Ratios for Eastern Washington

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal Pool	2:1 Compensation must be seasonally ponded wetland	4:1 Compensation must be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible ²	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-base
Category I Alkali	Not considered possible ²	6:1 Rehabilitation of an alkali wetland	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case
Category I Bog	Not considered possible ²	6:1 Rehabilitation of a bog	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case

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Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
<p>1. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.</p> <p>2. Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.</p> <p>Reference: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, WA.</p>					

11. Water dependent uses (ex. piers), as defined in this Chapter, may be located within a wetland or wetland buffer when the applicant or property owner can demonstrate compliance with Section 6.3.2, General Performance Standards.
 - a. Developments authorized within a wetland buffer shall comply with the following minimum standards:
 - i. Designated wetlands and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, non-buildable lots, buffer areas or common areas. Ownership and control may be transferred to a homeowner’s association or designated as an easement or covenant encumbering the property.
 - ii. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Shoreline Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as a may be approved by the Shoreline Administrator.

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12. The following activities are allowed to occur in wetlands and wetland buffer zones subject to conditioning with appropriate best management practices to minimize impacts on the functions and values of wetlands:
- a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - b. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
 - i. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than 5 feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
 - ii. Wildlife-viewing structures.
 - c. Educational and scientific research activities.
 - d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
 - e. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
 - f. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
 - g. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species
13. Stormwater management facilities shall be allowed within the outer 25 percent of a wetland buffer around Category III or IV wetlands, provided that no other location is feasible and that the location of such facilities will not degrade the functions of the

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wetland or its buffer. All projects shall comply with the applicable federal, state and local regulations regarding the species

14. As a condition of any permit or authorization pursuant to these regulations, the Shoreline Administrator may require temporary or permanent signs and/or fencing along the perimeter of a wetland or buffer in order to protect the functions and values of the wetland, or to minimize future impacts or encroachment upon the wetland or buffer.
15. Wetland alteration proposals shall be approved only if no alternative is available. If alteration is unavoidable, all adverse impacts shall be mitigated as set forth in an approved Critical Areas Report and mitigation plan.
16. When feasible, mitigation shall be on-site and sufficient to maintain the functions and values of the wetland and buffer areas. If on-site mitigation is not feasible, then the applicant shall demonstrate that the mitigation site is the nearest that can reasonably achieve the goals of mitigation with a high likelihood of success.
17. As determined through the site-specific study, mitigation measures shall be implemented that maintain the functions and values found in the particular wetland.
18. As determined through the site-specific study, appropriate mitigation, management, and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described herein above.
19. A legally established use or structure established prior to the effective date of the ordinance codified in this chapter which does not conform to standards set forth herein is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

F. Wetland Management and Mitigation Plan:

1. Compensatory Mitigation Plan. Where mitigation is required pursuant to Section 6.3.2, the applicant shall prepare a Mitigation Plan. The Mitigation Plan shall follow the general requirements described herein below and *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)*, Ecology (Publication #06-06- 011b, March 2006 or as revised), and *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Eastern Washington) (Publication #10-06-07, November 2010, or as revised). The following items at a minimum are required as part of a mitigation plan:
 - a. Description of project or activity, including a detailed narrative describing the project or activity, its relationship to the wetland and its potential impact to the wetland; and
 - b. Any proposed mitigation, including a discussion of how the project has been designed to avoid and minimize adverse impacts to wetlands, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer.
 - c. A report which includes, but is not limited to:
 - i. Location maps.

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- ii. A site map prepared at a scale no smaller than 1-inch = 200 feet indicating the boundaries of the identified wetlands; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and stormwater management facilities; adjacent land uses, zoning districts, and comprehensive plan designations.
- iii. A description of the vegetation in the wetland, on the overall project site, and adjacent to the site. A description of the existing wetland and buffer areas proposed to be impacted.
- iv. A discussion of any federal, state, or local wetland-related permits required for the project.
- v. A discussion of the following mitigation alternatives as they relate to the proposal:
 - A) Avoiding the impact altogether by not taking a certain action or parts of an action.
 - B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
 - C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
 - D) Compensating for functions affected by the proposed project, with the intention to achieve functional equivalency or improvement of functions.
- d. Include a description of the compensatory mitigation site, including location and rationale for selection. Describe how preferred order of wetlands mitigation was followed: 1) restoration (including reestablishment and rehabilitation), 2) creation (establishment), 3) enhancement in combination with restoration or creation, and 4) preservation of high-quality, at risk wetlands. Include an assessment of existing conditions and estimate future conditions if actions are not undertaken. Describe the proposed actions for compensating wetland and upland areas affected by the project. Include the overall goals of the proposed mitigation, including targeted functions. Describe the proposed mitigation construction activities and timing of activities, along with a detailed discussion of ongoing management and monitoring practices which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs; and
- e. Proposed mitigation ratios, including a discussion of functions and values of and the variety of habitats provided by the proposed replacement wetland. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Shoreline Administrator may allow mitigation based on the "credit/debit" method developed by Ecology in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report* (Ecology Publication #11-06-015, August 2012, or as revised).

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6.3.4 Critical Aquifer Recharge Area

A. Classification:

1. Critical potential: Wellhead protection areas, streams, wetlands, and any other lands that have been specifically identified as critical recharge areas based on reliable scientific data.
2. High potential: Areas in which soils show permeability ratings of more than 20 inches per hour.

B. Development Standards:

1. Development activities within an aquifer recharge area shall be designed, developed and operated in a manner that will not potentially degrade groundwater resources nor adversely affect the recharging of the aquifer.
2. All new development shall comply with the following requirements:
 - a. Applicable water source protection regulations set forth by the U.S. Environmental Protection Agency (EPA), Ecology, the Washington State Department of Health, or the Okanogan County Health District.
 - b. Applicable ground water management area regulations;
 - c. Applicable regulations set forth by any Irrigation Districts regulated by Reclamation.
 - d. State requirements regarding protection of upper aquifer zones and ground water quality (Chapter 173-154 and 173-200 WAC, respectively).
 - e. The *Stormwater Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, or as revised) shall provide the preferred guidance for stormwater BMPs.
3. A hydrogeologic study and/or ongoing monitoring may be required to assess impacts of development activities on groundwater resources.
4. All proposed activities within aquifer recharge areas must comply with the water source protection requirements of the federal EPA, State Department of Health and the County health district.
5. On-site stormwater facilities shall be designed and installed in all aquifer recharge areas, so as to provide both detention and treatment of all runoff associated with the development.
6. All development occurring within aquifer recharge areas shall connect to town water and sewer when available. On-site sewage disposal shall be prohibited unless no other options are available.
7. Landfills, junkyards/salvage yards, mining, wood treatment facilities, or any other activity that could impair the recharge of critical aquifer recharge areas. Such activities may be permitted in areas with high or moderate recharge potential in accord with applicable

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zoning regulations, providing the applicant can satisfactorily demonstrate that potential negative impacts to groundwater can be prevented.

8. All storage tanks, whether above or underground, shall be required to be constructed so as to protect against corrosion for the operational life of the tank, to prevent any release of hazardous substances to the ground, ground waters, or surface waters, and to utilize appropriate containment methods.
9. Any agricultural activities conducted within aquifer recharge areas shall incorporate best management practices concerning waste disposal, fertilizer/pesticide/herbicide use, and stream corridor management. If necessary applicants shall seek technical assistance from the County conservation district or the Washington State University (WSU) cooperative extension office.
10. Application of pesticides, herbicides and fertilizers within aquifer recharge areas shall comply with timing and rates specified on product packaging.
11. Vehicle repair and servicing activities must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

C. Critical Areas Report Requirements:

1. In addition to the general requirements for Critical Areas Reports, a Critical Areas Report for development activities within or adjacent to an aquifer recharge area shall contain the following:
 - a. A scaled development plan showing the recharge areas;
 - b. Detailed information on the following items:
 - i. Hydrogeological susceptibility to contamination and contaminant loading potential.
 - ii. Depth to ground water.
 - iii. Hydraulic conductivity and gradient.
 - iv. Soil texture, permeability, and contaminant attenuation potential.
 - c. Vadose zone analysis, including implications of permeability and attenuation properties.
 - d. An analysis of the recharge area's toleration for impervious surfaces in terms both of aquifer recharge and the effect on water quality.
 - e. A summary of the proposed development's effect on the recharge area.
2. When a proposed use presents a high risk of drinking water contamination, a hydrogeologic assessment shall be required.

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- a. A hydrogeologic assessment shall be required for the following land uses:
 - i. Hazardous substance processing and handling.
 - ii. Hazardous waste treatment and storage facility.
 - iii. Wastewater treatment plant sludge disposal.
 - iv. Solid waste disposal facility.
- b. A required hydrogeologic assessment shall be submitted by a hydrogeologist licensed by the state of Washington. The hydrogeologic assessment shall use scientifically valid methods and studies to establish existing (baseline) water quality and shall be used to develop conditions of approval to ensure that the proposed development will not contribute contaminants or facilitate degradation of recharge areas. In addition to the information required in all critical areas reports, the assessment shall include, at a minimum:
 - i. Pertinent well log and geologic data.
 - ii. Ambient groundwater quality.
 - iii. Groundwater elevation.
 - iv. Recharge potential of facility site.
 - v. Current data on wells and any springs located within 1,000 feet of the facility.
 - vi. Surface water location and potential recharge.
 - vii. Water supply source for the facility.
 - viii. Analysis and discussion of the effects of the proposed project on the groundwater resource.
- c. A required hydrogeologic assessment must demonstrate that the proposed use does not present a threat of contamination to the aquifer system. Successful demonstration of those findings warrants approval under this section.
- d. Ongoing monitoring of uses that present high risk of drinking water contamination may be required to assess impacts of development activities on groundwater resources.

6.3.5 Fish and Wildlife Habitat Conservation Areas

A. Classification:

1. Fish and wildlife habitat conservation areas include those with the following characteristics:
 - a. Federally designated endangered, threatened and sensitive species. Areas with which federally designated endangered, threatened and sensitive species have a primary association. Federally designated endangered and threatened species are those fish and wildlife species identified by the USFWS and the National Marine Fisheries Service that are in danger of extinction or threatened to become

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- endangered. The USFWS and the National Marine Fisheries Service should be consulted for current listing status.
- b. State designated endangered, threatened and sensitive species. Areas with which state designated endangered, threatened and sensitive species have a primary association.
 - c. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State identified by WDFW, 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 WDFW maintains the most current listing and should be consulted for current listing status.
 - d. 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 WDFW.
 - e. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the Town, 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 with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term.
 - f. All areas within the Town meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to the provisions of this Chapter.

B. Development Standards:

1. Flora (plant life) and Fauna (animal life) identified as protected, shall be sheltered from construction activities using BMPs.
2. Habitat conservation areas and buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the habitat conservation area and/or buffer are unavoidable, demonstrated in a habitat management and mitigation plan described in Section 6.3.5G.

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3. Critical area reports for fish and wildlife habitat conservation areas shall include a habitat assessment to evaluate the presence or absence of a potential critical species or habitat.
4. The WDFW priority habitat and species management recommendations shall be consulted in developing specific measures to protect a specific project site.
5. All projects shall comply with the applicable federal, state and local regulations regarding the species and habitats identified to be upon a site.
6. Establishment of Buffers. When needed to protect the functions and values of habitat conservation areas, the Shoreline Administrator shall require the establishment of buffer areas for activities in or adjacent to such areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration. Buffer widths shall reflect the sensitivity of the habitat and the intensity of activity proposed, and shall be consistent with the management recommendations issued by the WDFW.
7. As determined through the site-specific study, mitigation measures shall be implemented that maintain the base line populations and reproduction rates for the particular species.
8. As determined through the site-specific study, appropriate habitat conservation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described in this chapter.
9. Habitat Conservation Areas:
 - a. Development occurring within a 1,000-foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require a habitat management and mitigation plan.
 - b. Cliff, cave and talus slope habitats shall have at least a 50-foot buffer for safety and resource protection.
 - c. Bald Eagles: an approved bald eagle management plan by the WDFW meeting the requirement and guidelines of the Bald Eagle Protection Rules, WAC 232-12-292, as amended, satisfies the requirements of a habitat management and/or mitigation plan.
 - d. Mule Deer Habitat: habitat connectivity and migration corridors for mule deer shall be considered in habitat management and/or mitigation plans.
 - e. Development in or over all surface waters shall require a habitat mitigation plan.
 - f. Riparian buffer for West Fork Salmon Creek in the Town is provided in Table 4.

C. Administrative Buffer Width Averaging.

1. The required buffer widths established in this SMP may be modified by the Shoreline Administrator for a development on existing legal lots of record in place at the time of adoption of this Program, in accordance with the provisions of this section only where the applicant demonstrates all of the following:

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- a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
 - b. The designated buffer area contains variations in sensitivity to ecological impacts due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
 - c. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;
 - d. The minimum buffer width at its narrowest point shall not be less than 75 percent of the buffer width established under this SMP; and
 - e. The buffer width averaging does not result in a net loss of ecological function
- D. Shoreline Buffer Reductions. Shoreline buffers may be administratively modified where a legally established road or other type of continuous development crosses or extends along a shoreline or critical area buffer and is wider than 20 feet. The Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved continuous development provided the upland side of the continuous development areas outlined below:
1. Does not provide additional protection of the shoreline water body or stream; and
 2. Provides little (less than 20 percent) to no biological, geological or hydrological buffer functions relating to the riparian and upland portions of the buffer
- E. Standard Buffer Reduction. Reductions of up to 75 percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that a mitigation plan developed by a qualified professional pursuant to Section 6.3.3 (F) indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer.
- F. In Fill Development. In an effort to facilitate in-fill development in approved plats, the Town may approve requests to reduce the standard shoreline buffers up to a maximum of 50 percent for a new single-family residence and appurtenant structures in accordance with the following criteria:
1. Where there are single-family residences within 150 feet on either side of the proposed residence in an existing plat, the buffer shall be determined as the greater of one of the following three options: 1) a common line drawn between the nearest corners of the nearest residence, 2) a common line calculated by the average of the nearest residences' existing buffer, or 3) a 50 percent reduction of the standard buffer.
 2. Where there is only a residence located within 150 feet on one side of the proposed residence in an existing plat, the standard buffer shall be determined as the greater of a common line drawn between nearest corner of the nearest residence and the nearest point of the standard buffer on the adjacent vacant lot, a common line calculated by

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the average of the nearest residence's setback and the standard buffer for the adjacent vacant lot, or a 50 percent reduction of the standard buffer

G. Fish/Wildlife Habitat Management and Mitigation Plan:

1. A fish/wildlife habitat management and mitigation plan shall be prepared by a qualified professional biologist who is knowledgeable of fish and wildlife habitat within North Central Washington.
2. In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the water shed or sub- basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.
3. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, no net loss of ecological functions of the habitat conservation area and buffer.
4. The fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffer.
5. Mitigation for development may include a sequenced combination of the mitigation measures included in Section 6.3.2, General Performance Standards, as needed to achieve the most effective protection or compensatory mitigation for critical area functions.
6. Mitigation Ratios.
 - a. Mitigation ratios shall be used when impacts to riparian areas, aquatic habitat, and riparian buffers are unavoidable. Compensatory mitigation shall restore, create, rehabilitate or enhance equivalent or greater ecological functions. Mitigation shall be located onsite unless the biologist can demonstrate, and the Town approves that onsite mitigation will result in a net loss of ecological functions. If offsite mitigation measures are determined to be appropriate, offsite mitigation shall be located in the same watershed as the development within Town.
 - b. The onsite mitigation ratio shall be at a minimum area replacement ratio of 1:1 for development within aquatic habitat, riparian areas and riparian buffers. An area replacement ratio of 2:1 shall apply to native vegetation removal within these areas. Mitigation for diverse, high quality habitat or offsite mitigation may require a higher level of mitigation. Mitigation and management plans shall evaluate the need for a higher mitigation ratio on a site by site basis, dependent upon the ecological functions and values provided by the habitat. Recommendations by resource agencies in evaluating appropriate mitigation shall be encouraged.

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6.3.6 Geologically Hazardous Areas

A. Classification and Designation

1. Geologically hazardous areas include those with the following characteristics:
 - a. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shore land and/or stream bank erosion and those areas within a river's CMZ. Erosion hazard areas are those that contain all three of the following characteristics:
 - i. A slope of 30 percent or greater.
 - ii. Soils identified by the Soil Conservation Service as unstable and having a high potential for erosion.
 - iii. Areas that are exposed to the erosion effects of wind or water.
 - b. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas are those that may contain any of the following circumstances:
 - i. All areas that have historically been prone to landsliding.
 - ii. All areas containing soil types identified by the NRCS as unstable and prone to landslide hazard.
 - iii. All areas that show evidence of or are at risk from snow avalanches.
 - iv. All areas that are potential unstable as a result of rapid stream incision or stream bank erosion.
 - c. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table. Seismic hazards shall be as identified in the Washington State Department of Natural Resources seismic hazard and liquefaction susceptibility maps for Eastern Washington and other geologic resources.
 - d. Mine Hazard Areas. Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that

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should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

- e. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.
- f. Other Hazard Areas. Geologically hazardous areas shall also include areas determined by the Shoreline Administrator to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.
- g. Known geologically hazardous areas within the Town consist of erosion hazard areas, including steep slopes. As more information is obtained that demonstrates the existence of other types and/or areas of geologically hazardous areas, these types and/or areas shall be classified and protected in accordance with the provisions of this chapter.

B. Development Standards:

- 1. All projects shall be evaluated through a geotechnical report, completed by a qualified professional with expertise in the particular hazard(s) present in a given critical area, to determine whether the project is proposed to be located in a geologically hazardous area, and if so, what is the project's potential impact on the geologically hazardous area and the potential impact of the geologic hazard on the proposed project.
- 2. All projects shall comply with the applicable federal, state and local regulations, including the International Building Code.
- 3. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:
 - a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions.
 - b. Will not adversely impact other critical areas.
 - c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions.
 - d. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
- 4. Mitigation plans for geologically hazardous areas shall establish setbacks and buffer widths as needed to eliminate or minimize risks of property damage, death, or injury resulting from development of the hazard area. Where established, buffers shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s).
- 5. The existing native vegetation within the buffer area(s) shall be maintained, except that normal, nondestructive pruning and trimming of vegetation for maintenance purposes is allowed;

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6. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited. Where removal of vegetation is unavoidable, reseeding and replanting with native vegetation shall be preferred. In lieu of a native restoration planting an erosion control mix recommended by the NRCS, the Okanogan County Conservation District, the WSU Cooperative Extension Office, or other qualified agent to assist in stabilization of the areas and to discourage establishment of invasive plants may be substituted.
7. As determined through the site-specific study, appropriate drainage, grading, excavation and erosion control measures shall be implemented in the geologically hazardous area(s).
8. Every Erosion Hazard Area mitigation plan shall include a run-off management plan or an erosion control plan to reduce sedimentation problems.
9. Development and activities located within landslide or erosion hazard areas shall provide for long-term slope stability, and design shall incorporate the following standards:
 - a. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;
 - b. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
 - c. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
 - d. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
 - e. Development shall be designed to minimize impervious lot coverage.
10. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available.
11. Subdivision of lands in erosion, landslide, and mine hazard areas is subject to the following:
 - a. Land that is located wholly within an erosion, landslide or mine hazard area or its buffer may not be subdivided. Land that is located partially within an erosion, landslide or mine hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the geologic hazard area.
 - b. Access roads and utilities may be permitted within the erosion, landslide or mine hazard area and associated buffers only if no other feasible alternative exists.
12. As determined through the site-specific study, mitigation measures shall be implemented that maintain the integrity of the geologically hazardous area(s);

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13. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided as described herein above; and
14. A use or structure established prior to the effective date of this chapter which does not conform to standards set forth herein, is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.
15. Additional Considerations:
 - a. Site specific considerations may warrant additional performance standards, to be determined during the permit process, to ensure the protection of critical areas.
 - b. Development specific considerations may warrant additional performance standards based on level of impact to critical areas.

6.3.7 Frequently Flooded Areas

A. Classification

1. Frequently flooded areas shall be those floodways and associated floodplains designated by FEMA flood hazard classifications as delineated on the most current available Flood Insurance Rate Maps (FIRM) for the County, or as subsequently revised by FEMA, as being within the 100-year floodplain, or those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by Okanogan County Board of Commissioners, as being within the 100-year floodplain or having experienced historic flooding; or CMZs identified through mapping developed as part of the 2015 Okanogan County SMP update. The CMZ is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). For the purpose of this ordinance, in case of conflict between FEMA flood hazard maps and the comprehensive flood hazard management plan designations, the more restrictive designation shall apply.

B. Maps and References:

1. In addition to the Critical Areas Checklist prepared by the applicant and any site reconnaissance conducted by the Department, the Shoreline Administrator shall use the following maps and references to assist in making a Preliminary Determination pursuant to Section 6.3.1 (I).
 - a. FEMA FIRMs, most current available.
 - b. Maps and reference documents in the County SMP Inventory, Analysis, and Characterization report, as applicable.

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- c. CMZ mapping developed as part of the 2015 Okanogan County SMP update, noting applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.
 - i. CMZ maps prepared consistent with WAC 173-26-221(3)(b) are included in the County's *SMP Inventory, Analysis, and Characterization* report. These maps provide complete coverage of waterbodies in the County that have potential for channel migration. The responsible local government shall utilize these maps in shoreline application reviews.
 - ii. Applicants for shoreline development or modification may submit a site-specific CMZ study if they do not agree with the mapping in the County's *SMP Inventory, Analysis, and Characterization* report.

C. Development Standards:

- 1. In addition to the general provisions of these regulations and the requirements of the underlying zoning district, the following minimum standards shall apply to development activities within and adjacent to frequently flooded areas:
 - a. All development within frequently flooded areas shall comply with the Okanogan County Flood Damage and Prevention Ordinance (OCC 15.08) regarding structural safeguards to reduce risk to human life, health and property from flooding, and other pertinent ordinances and codes.
 - b. Any use or development shall not alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.
 - c. The West Fork Salmon Creek CMZ shall be regulated as floodway consistent with Section 6.1.8, Flood Hazard Reduction, and the Okanogan County Flood Damage and Prevention Ordinance (OCC 15.08).
 - i. Documentation of alternate CMZ boundaries must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification (based on WAC 173-26-221(3)(b) and comments by USFWS).
 - d. Where Frequently Flooded Areas coincide with other designated critical areas, critical areas reports and mitigation plans shall address any combined functions and values.

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- e. Filling and grading in Frequently Flooded Areas shall occur only upon a determination by a qualified professional that the filling or grading will not increase flood hazards to others.
- f. Subdivision in Frequently Flooded Areas is subject to the following standards:
 - i. All lots created shall have adequate building space outside flood hazard areas, including the floodway, 100-year floodplain, and CMZs;
 - ii. Plat maps shall indicate the floodway and the 100-year floodplain;
 - iii. Subdivisions shall be designed to minimize or eliminate the potential for flood damage; and
 - iv. Subdivisions shall provide for stormwater drainage, in accordance with Town standards, so as to reduce exposure to flood hazards.
- g. Bank Stabilization Projects: Where consistent with other regulations and with the Flood Hazard Reduction Plan, protection of structures, public roadways or sole access routes in existence before the effective date of this chapter shall be allowed. Such projects shall be designed to minimize adverse impacts to property, public improvements, and ecological functions.
- h. Utilities shall be located above the Base Flood Elevation (BFE), preferably 3 or more feet.
- i. All new construction and substantial improvements shall be constructed using flood resistant materials and using methods and practices that minimize flood damage.
- j. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- k. No rise in the BFE shall be allowed. Post and piling techniques are preferred and are presumed to produce no increase in the BFE.
- l. Modification of stream channels shall be avoided.

6.3.8 Existing Structures and Development

- A. Lawfully existing structures and previously approved developments prior to the adoption of this section shall be allowed to continue as exemptions from this chapter. It is the intention of this chapter to allow these nonconforming uses to continue and to allow previously approved developments to commence without any additional review procedures.

6.3.9 Warning and Disclaimer of Liability

- A. This chapter does not imply that land outside critical areas activities that are permitted within such areas will be free from exposure or damage resulting from catastrophic natural disasters which can, and will, occur on rare occasions. This chapter shall not impose or create any liability on the part of the Town, elected or appointed officials and/or employees thereof, for any damages that result from reliance on this chapter or any administration decision lawfully made hereunder.

6.4 EXISTING USES, STRUCTURES, AND LOTS

6.4.1 Applicability

- A. All nonconformances in shoreline jurisdiction shall be subject to the provisions of this Section, 6.4, Existing uses, structures, and lots. For nonconformance of use, structures and lots within shoreline critical areas, Section 6.3, Critical Areas applies. When there is a conflict between this Section and the Critical Areas Section as applicable to critical areas, the more restrictive standards shall apply.
- B. The provisions of this chapter do not supersede or relieve a property owner from compliance with:
 - 1. The requirements of the International Building and Fire Codes.
 - 2. The provisions of the SMP beyond the specific nonconformance addressed by this chapter.
- C. A change in the required permit review process (e.g. Shoreline Substantial Development Permit versus a SCUP) shall not create a nonconformance.
- D. Any nonconformance that is brought into conformance for any period of time shall forfeit status as nonconformance, except as specified in Section 6.4.2, Nonconforming Uses.
- E. A nonconforming lot, use, or structure may be deemed legally nonconforming by providing documentation that the use in question occurred prior to the effective date of this SMP, from one of the following:
 - 1. Local agency permit.
 - 2. Orthophoto, aerial photo or planimetric mapping recognized as legitimate by the agency.
 - 3. Tax record.

6.4.2 Nonconforming Uses

- A. If, at the effective date of the SMP and any amendment thereto, a lawful use of land exists that is made no longer permissible under the terms of this SMP or amendments thereto, such use may be continued as a nonconforming use so long as it remains otherwise lawful subject to the following conditions:
 - 1. No nonconforming use shall be intensified, enlarged, increased or extended to No nonconforming use shall be intensified, enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of the SMP or

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- amendment that made the use no longer permissible. Provided that a nonconforming use may be enlarged, increased or extended in conformance with applicable bulk and dimensional standards of this SMP upon approval of a shoreline conditional use permit.
2. No nonconforming use shall be moved in whole or in part to any other portion of the lot which contains the nonconforming use.
 3. If any nonconforming use of land ceases for any reason for a period of one year, any subsequent use of such land shall conform to the regulations specified by this SMP for the use environment in which such land is located.
 4. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon a finding that:
 - a. No reasonable alternative conforming use is practical;
 - b. The proposed use is equally or more appropriate to the shoreline environment than the existing nonconforming use, and is at least as consistent with the policies and provisions of the act and the SMP;
 - c. Such a change of use shall be subject to conditional use permit approval. Conditions may be attached to the permit as are deemed necessary to ensure compliance with the above findings, the requirements of the SMP and the Act and to ensure that the use will not become a nuisance or a hazard.

6.4.3 Nonconforming Structures

- A. If, at the effective date of the SMP or any amendment thereto, a lawful structure or other improvement exists which is made no longer permissible under the terms of this SMP or amendment thereto, such structure or other improvement may be continued as a nonconforming structure or other improvement so long as it remains otherwise lawful, subject to the following conditions:
 1. No nonconforming structure or other improvement shall be altered or changed in a way which increases its nonconformity except as allowed in 2.b.
 2. Expansions of structures that are nonconforming with respect to a required shoreline buffer:
 - a. May not encroach any farther waterward into the required shoreline buffer.
 - b. Expansions parallel to or landward of shoreline may be allowed 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. Expansions shall restore a portion of the shoreline buffer with riparian vegetation at a 1:1 area ratio to offset the adverse impact. When such expansions occur upland of an existing levee, the applicant's critical areas report may justify a smaller ratio provided that the study demonstrates no net loss of ecological functions.

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- B. All expansion, extension, maintenance or repair activities of nonconforming structures or improvements shall be consistent with all other provisions of this Program including requirements for no net loss of shoreline ecological functions, provided the cumulative cost of such maintenance or repair within any 180-day period shall not exceed 50 percent of the assessed valuation of such building, structure, or land (as applicable) at the time such maintenance is completed.
- C. When damaged, a nonconforming structure may be restored to the configuration existing immediately prior to the time that the structure was damaged, provided that:
 - 1. The structure is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development.
 - 2. The applicant applies for permits needed to restore the development within six months of the date the damage occurred.
 - 3. Reconstruction is started within 12 months and is completed within 24 months of the date of damage, unless an extension of time is granted by the Shoreline Administrator upon written petition substantiating to the satisfaction of the Administrative Official due cause for such extension;
 - 4. The degree of the nonconforming use, building or structure is not increased.
- D. Nothing in this section will prohibit vertical expansion up to the height allowed in the applicable use environment, provided all other applicable requirements of Town of Conconully development regulations are met.
- E. Upkeep, repairs and maintenance of a nonconforming structure or other improvement shall be permitted.
- F. Should such structure or other improvement be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the use environment in which it is located. Conformance shall be required when:
 - 1. A change of use is proposed;
 - 2. The use is terminated or discontinued for more than one (1) year, or the structure(s) that houses the use is vacated for more than one (1) year; or
 - 3. The structure(s) or activity that occurs on the land in which the use is conducted is proposed for relocation.
- G. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density.
- H. For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

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7.0 CUMULATIVE IMPACT ANALYSIS

The purpose of this section is to evaluate the cumulative impacts of reasonably foreseeable future development on shoreline ecological functions supported by the goals, policies, and regulations of the Town of Conconully's SMP. This evaluation includes the factors identified in WAC 173-26-186 (8)(d)(i) through (iii):

- Current circumstances affecting the shorelines and relevant natural processes;
- Reasonably foreseeable future development and use of the shoreline; and
- Beneficial effects of any established regulatory programs under other local, state, or federal laws.

7.1 CURRENT CIRCUMSTANCES

Cumulative impact analysis requires an understanding of the current land use patterns, regulations affecting development, shoreline ecological functions, and other cultural, social, and historic conditions. Appendix B – Shoreline Inventory contains analyses performed to establish the baseline for understanding the current conditions of Conconully's jurisdictional shorelines. The following tables summarize those conditions at the first and second jurisdictional shoreline areas around Conconully Reservoir as shown in Exhibit 1 in Appendix A:

7.1.1 First Area: North of Conconully Reservoir

Hazard Potential	Habitat Conditions	Public Access	Key Modifications
Earthquake: Between 18-40% in next 40 years Flood: Located in 100-year floodplain Slopes: 0-3%	Riparian, managed lawns, impervious parking area surface.	Pedestrian access from Conconully State Park.	Principal Land Use: Public/Community. RV parking area within 75'.

Designated Shoreline Residential by the County's SMP, this area is part of Conconully State Park. The Shoreline Residential designation is meant to accommodate residential development and accessory structures. The shoreline residential environment may also provide appropriate public access and recreational uses. A parking area for RVs extends into the 75-foot riparian buffer and may be a source of septic and vehicle related pollutants. The riparian vegetation is established, providing bank stability, and sources of woody debris.

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7.1.2 Second Area: Northwest of Conconully Reservoir

Hazard Potential	Habitat Conditions	Public Access	Key Modifications
Earthquake: Between 18-40% in next 40 years Flood: Located in 100-year floodplain Slopes: 30-60%	Riparian, impervious road surface, residential development.	Pedestrian access off of West Fork Road.	West Fork Road runs north/south through the area. Residential development on west side of road.

Also designated Shoreline Residential by the County SMP, this reach of shoreline is bordered by West Fork Road and residential development on the west side. West Fork Road and septic tanks associated with residential development are potential sources of non-point pollution. The shoreline east of West Fork Road has established riparian vegetation and sources of large woody debris. The fluctuating waterline of the reservoir has created potential freshwater emergent wetlands.

7.2 NO NET LOSS

7.2.1 WAC 173-26-201 (2)(c)

Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:

- Environmental designations with appropriate use and development standards;
- Provisions to address the impacts of specific common shoreline uses, development activities, and modification actions;
- Provisions for the protection of critical areas within the shoreline; and
- Provisions for mitigation measures and methods to address unanticipated impacts.

SMPs must achieve no net loss of ecological functions, which necessary to sustain shoreline natural resources as development and use of shorelines continue over time. Influences outside of the shoreline jurisdiction place additional pressure on those same shoreline resources. The goals, policies, regulations, and restoration plans of the two jurisdictional shorelines assure no net loss of shoreline ecological functions.

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7.3 FORESEEABLE FUTURE DEVELOPMENT AND USE OF SHORELINES

The first area has minimal development opportunity or expected development pressure given its location within Conconully State Park. Use is expected to remain primarily recreational for the foreseeable future. Enforcement of riparian and emergent vegetation buffer zones will insure no net loss of ecological function.

The second area has been given the Shoreline Residential environmental designation. This designation is primarily assigned to shoreline areas if they are predominantly small-lot single-family or multi-family residential development or are planned and platted for such residential development. The purpose of the designation is to accommodate residential development and accessory structures. The shoreline residential environment may also provide appropriate public access and recreational uses. Additional residential development is unlikely, but the Town of Conconully would like to construct more road access, boating docks, boat launches, and trails (Sam Martin, Mayor of Conconully, personal communication, June 22, 2015). The community has expressed an interest in the construction of a fishing pier and having the Conconully Reservoir dredged. Dredging the shallow portions of the Conconully Reservoir would allow greater access to the reservoir by boats and increase boat safety. In addition, the community is interested in maintaining more consistent high reservoir/lake levels, so that boats can be put in safely. No net loss of ecological function will be insured by riparian and emergent vegetation buffer zones, permitted stormwater management practices, and development permit conditions.

7.4 BENEFICIAL EFFECTS OF ANY ESTABLISHED REGULATORY PROGRAMS UNDER OTHER LOCAL, STATE, AND FEDERAL LAWS

The most common permits required for shoreline development projects include:

- Review for compliance with SEPA, usually completed by the local jurisdiction during the shoreline permitting process.
- Critical Area Regulations required by GMA, completed by the local jurisdiction. This SMP includes critical area regulations consistent with GMA requirements.
- A Hydraulic Project Approval (HPA) from the WDFW.
- 401 Water Quality Certification from Ecology. This certification is authorized through Chapter 90.48 RCW Water Pollution Control.
- A building permit from the County or the Town.

All shoreline permit applications require a 30-day grace period from the date the permit was filed with the local government. This 30-day period allows for sufficient time for Ecology and Attorney General's Office to review the permit application and comment.

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8.0 SHORELINE PROTECTION AND RESTORATION

8.1 RESTORATION INTRODUCTION

This restoration plan has been prepared in accordance with the Ecology shoreline management guidelines. The guidelines direct local government review and updates of SMPs. A significant feature of the guidelines is the requirement that local governments include within their SMP, a “real and meaningful” strategy to address restoration of shorelines (WAC 173-26-186(8)). The state guidelines emphasize that any development must achieve no net loss of ecological functions. The guidelines go on to require a goal of using restoration to improve the overall condition of habitat and resources and makes “planning for and fostering restoration” an obligation of local government.

From WAC 173-26-201(2)(c): Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201(3)(d)(i). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process and authorize, coordinate, and facilitate appropriate publicly and privately initiated restoration projects within their master programs. The goal of this effort is to establish master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.

8.2 GOAL

The goal of restoration is to achieve a net gain in shoreline ecological functions by providing for the timely repair and rehabilitation of impaired shorelines through a combination of public and private programs and actions.

8.3 OBJECTIVES

1. Restoration projects shall be designed with the intent to achieve no net loss of ecological functions.
2. Encourage cooperation between public agencies, private property owners, citizens, and volunteer groups for restoration projects.
3. Facilitate restoration by expediting and simplifying the shoreline permit process for projects that are conducted solely for restoration purposes.
4. Encourage public education of shoreline functions and ecology in conjunction with restoration projects.

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8.4 POLICIES

1. Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
2. Mitigation associated with shoreline development projects shall be designed to achieve no net loss of ecological function.
3. The Town shall seek funding from state, federal, private, and other sources to implement restoration, enhancement, and acquisition projects.
4. The Town shall develop review guidelines that will streamline the review of restoration-only projects.
5. The Town shall encourage public and private shoreline owners to promote the proliferation of native, noninvasive wildlife, fish, and plants.
6. Restoration projects shall be coordinated with local public utility and conservation districts.
7. Ensure that long-term maintenance and monitoring of restoration sites is included in the original permitting of the project.
8. Allow for the use of tax incentive programs, mitigation banking, restoration grants, land swaps, or other programs as they are developed to encourage restoration of shoreline ecological functions and protect habitat for fish, wildlife, and plants.
9. Jurisdictions shall pursue the development of a public benefit rating system that provides incentives for the restoration of the shoreline.
10. Jurisdictions shall coordinate with state resource agencies to develop educational materials which promote the maintenance and restoration of shoreline functions.
11. Educational materials shall provide resources for a variety of scenarios and trends occurring within the shorelines that are reflected in the inventory and analysis, such as planned residential and commercial development.

8.5 EXISTING AREAS

There are two stretches of jurisdictional shoreline along Conconully Reservoir where restoration techniques should be considered. The first stretch is part of Conconully State Park along the northern edge of the reservoir, and has been designated as Shoreline Residential (Exhibit 14). The riparian vegetation is established, but the 75-foot riparian buffer does include a recreational vehicle (RV) parking area.

The second stretch is bordered by West Fork Road and residential development on the northwest corner of the reservoir, and has also been designated as Shoreline Residential. Riparian vegetation is established and sources of large woody debris are present. This area has been identified for future development.

Both areas show signs of freshwater emergent wetlands (Figure 2).

8.6 RESTORATION TECHNIQUES

The following shoreline restoration techniques were chosen based on their applicability to the two stretches of jurisdictional shoreline along Conconully Reservoir. The shoreline along the northwestern shore has been identified for future development. Therefore, it is should be considered the higher priority for any restoration and mitigation techniques. Vegetation establishment should be the primary method in order to encourage the emergent freshwater wetlands.

Concerns for the northern shore center on the proximity of the RV parking area. Discharges of pollutants are expected; therefore, structural mitigation along the boundaries of the parking area, combined with enforcement of sanitation discharge regulations, should be the primary mitigation methods. Additional vegetative establishment should be considered in order to encourage the emergent freshwater wetlands as time and funds allow.

8.6.1 Vegetation Establishment

Vegetation establishment is an option for improving bank stability or restoring bank ecological functions in moderate risk locations. Generally, this technique can be effectively applied to reaches of degraded shorelines characterized by minor superficial erosion, small earth slumps, and marginal vegetative cover.

Vegetative systems provide many benefits to fish and wildlife populations, as well as increasing the shoreline's resistance to erosive forces. Vegetation near the shoreline provides shade to help maintain suitable water temperature for fish, provides habitat for wildlife and protection from predators, and contributes to aesthetic quality.

An example would be live-staking, a vegetative treatment technique that involves the insertion and tamping of live, rootable vegetative cuttings into the ground with the objective for them to root and grow.

Live-staking is often combined with brush layering or branch packing, which consists of dense rows of live cuttings, branches, and/or rooted stock between layers of compacted soil. This provides shallow soil reinforcement and protection from surface erosion. Brush layering is often used during projects that require fill placement.

Vegetation establishment's effectiveness as bank protection is limited in the first growing season, though it rapidly increases in subsequent years after roots and aboveground shoots and stems increase in size and coverage. Diversity is added to banks and floodplains and can provide overhanging cover for fish, eventually contributing woody material to habitats. Deposition of sediment may also be encouraged by the increase in hydraulic roughness created by dense stands of vegetation.

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8.6.2 Bank Shaping

Bank shaping is an option for improving bank stability in moderate- to high-risk locations. Generally, this is commonly applied along steep or eroding banks undercut and failing in cohesive masses due to either toe erosion or mass failure.

This technique includes reshaping of the bank to create a protective vegetative barrier of grasses and willows on a low bench to reduce the banks susceptibility to failure. This can be achieved using seed, willow cuttings, willow fascines, and coir erosion-control fabric.

An example of bank shaping is the design and placement of live fascines, long bundles of branch cuttings bound together in cylindrical structures. They are placed in shallow contour trenches on dry slopes and at an angle on wet slopes to reduce erosion and prevent shallow sliding. This breaks the bank into smaller, vegetated slopes that dissipate energy, physically bind the soil within the root zone and promote the entrapment of sediment and debris.

The effects of bank shaping include improved stability, reduced susceptibility to failure, improved vegetation establishment, improved recreational access to the water and reduced safety hazards.

8.6.3 Bioengineered Bank Stabilization

Bioengineering is an option for improving bank stability and restoring ecological functions in moderate- to high-risk locations. Generally, this is commonly applied along banks with moderate to steep slopes, significant toe erosion, or those that may require near-vertical structures.

Bioengineered techniques use vegetation and wood to reproduce the natural system and provide structural and surface erosion protection. Bioengineered techniques consist of entirely biodegradable components (i.e., natural material such as erosion-control fabrics, willow cuttings, and large woody debris). A major benefit of bioengineered techniques is that they are self-sustaining. Vegetation continues to grow and large woody material continues to be contributed as it falls along the shoreline.

An example of bioengineered bank stabilization is a vegetated geogrid that includes a system of soil layers or lifts reinforced with a combination of natural fabric and vegetation. The lifts are oriented along the face of the bank in a series of stepped terraces. Geogrids are widely used to provide internal stability to slopes and embankments.

8.7 PRIORITIZATION

Prioritization is based on a number of factors, including the needs of individual species, locations of refugia, and cost-effectiveness, response time, and probability of success of techniques (Beechie and Bolton, 1999). Those techniques that have a high probability of success, low variability among projects, and relatively quick response time should be implemented before

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other techniques. In general, reconnect high-quality isolated habitats, then enhance riparian environments, and lastly enhance up-slope environments. It is recommended that all shoreline enhancement projects should include a monitoring plan.

8.8 TIMELINES AND FUNDING

Multiple entities are responsible for systematically identifying, securing funding, designing, and construction projects that provide regionally important watershed-scale improvements to water quality and habitat improvements. The funding and timing with respect to design and construction of potential restoration projects is a continuous process.

8.9 EXISTING EFFORTS AND ONGOING PROGRAMS

This section lists the programmatic measures within the Town and the County designed to foster shoreline restoration and achieve a no-net loss of shoreline ecological functions, processes, and habitats. There are many programs in place that occur in the County that are related to NRCS or Conservation District programs. The Town does not anticipate leading most restoration projects or programs. However, the SMP represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by public, private, and/or nonprofit entities.

8.9.1 Federal Programs

8.9.1.1 Natural Resources Conservation Service (NRCS)

Conservation Reserve Enhancement Program (CREP) – is a partnership between the State and USDA that is administered by the Washington State Conservation Commission (WSCC) and the Farm Services Agency (FSA). The agreement was signed in 1998 and provides incentives to restore and improve salmon and steelhead habitat on private land. The program is voluntary for landowners; the land enrolled in CREP is removed from production and grazing under 10- or 15-year contracts. In return, landowners plant trees and shrubs to stabilize the stream bank and to provide a number of additional ecological functions. Landowners receive annual rent, incentive and maintenance payments, and cost share for practice installations. These payments made by FSA and the Conservation Commission can result in no cost to the landowner for participation.

Emergency Watershed Protection (EWP) Program – helps protect lives and property threatened by natural disasters such as floods, hurricanes, tornadoes, and wildfires. The program is administered by the NRCS, which provides technical and financial assistance to preserve life and property threatened by excessive erosion and flooding. EWP provides funding to project sponsors for such work as clearing debris from clogged waterways, restoring vegetation, and stabilizing riverbanks. The measures that are taken must be environmentally and economically sound and generally benefit more than one property owner. NRCS provides up to 75 percent of the funds needed to restore the natural function of a watershed. The community or local

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sponsor of the work pays the remaining 25 percent, which can be provided by cash or in-kind services.

Wetlands Reserve Program – is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA's NRCS provides technical and financial support to help landowners with their wetland restoration efforts. The NRCS goal is to achieve the greatest wetland functions and values, along with optimum wildlife habitat, on every acre enrolled in the program. This program offers landowners an opportunity to establish long-term conservation and wildlife practices and protection. The program offers three enrollment options:

1. Permanent easement – conservation easement in perpetuity. This program pays the lowest of either agricultural value of land, established payment cap, or an amount offered by the landowner and pays 100 percent of wetland restoration costs.
2. Thirty-year easement – 75 percent of permanent easement and 75 percent of restoration costs.
3. Restoration cost-share agreement – agreement to re-establish degraded or lost wetlands for minimum of 10 years. The program pays 75 percent of the restoration costs.

Wildlife Habitat Incentives Program (WHIP) – is a voluntary program for people who want to develop and improve wildlife habitat primarily on private land. Through WHIP, USDA's NRCS provides both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant generally last from 5 to 10 years from the date the agreement is signed. The 2002 Farm Bill provides for up to 15 percent of annual WHIP funds for increased cost-share payments to producers using agreements with a duration of at least 15 years.

8.9.1.2 U.S. Fish and Wildlife Service (USFWS)

North American Wetlands Conservation Fund – has funds for local governments with at least a 50 percent match to: (1) acquire real property interest in lands or waters, including water rights, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and (2) restore, manage, or enhance wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon. Further, funds from the Coastal Wetlands Planning, Protection, and Restoration Act may only be used in coastal wetlands ecosystems in coastal states.

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Cooperative Conservation Initiative – has funds available to support efforts to restore natural resources and establish or expand wildlife habitat. The program pays up to 50 percent of eligible project expenses.

Private Stewardship Grants -- provides grants or other assistance on a competitive basis to individuals and groups engaged in private conservation efforts that benefits species listed or proposed as endangered or threatened under the Endangered Species Act, candidate species, or other at-risk species on private lands within the U.S. The program pays up to 90 percent of eligible project expenses.

Cooperative Endangered Species Conservation Fund (Recovery Land Acquisition Grants) – is authorized under the Endangered Species Act. This fund provides grants to states and territories to support their participation in a wide array of voluntary conservation projects for listed species, as well as for species either proposed or candidates for listing. By law, the state or territory must contribute 25 percent of the estimated program costs of approved projects, or 10 percent when two or more states or territories undertake a joint project. One of the three grants available is the Recovery Land Acquisition Grant. These grants provide funds to states and territories for acquisition of habitat for endangered and threatened species in support of approved recovery plans.

8.9.1.3 Environmental Protection Agency (EPA)

The Clean Water State Revolving Fund Program - Under this program, EPA provides grants or “seed money” to all 50 states plus Puerto Rico to capitalize state loan funds. The states, in turn, make loans to communities, individuals, and others for high-priority water-quality activities. Types of projects funded include protecting and restoring wetlands and riparian buffers.

Wetland Protection, Restoration, and Stewardship Discretionary Funding - This program provides support for studies and activities related to implementation of Section 404 of the Clean Water Act (CWA) for both wetlands and sediment management. Projects can support regulatory, planning, restoration, or outreach issues. Typical grant awards range from \$5,000 to \$20,000.

Environmental Education Grants - This program funds a broad variety of environmental education, training, and outreach activities. Grant awards of up to \$50,000 are provided to universities, state, local, and tribal education agencies, and nonprofit organizations.

8.9.1.4 Bureau of Reclamation (Reclamation)

National Fish and Wildlife Foundation – The environmental restoration challenge grants program uses challenge grants, where recipients match funds, to encourage partnerships among federal agencies, tribes, state and/or local governments, nonprofit organizations, and individual landowners. The program offers reclamation awards grants for on-the-ground efforts to recover or conserve endangered or sensitive fish, plant, and wildlife species; restore riverine, wetland,

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riparian, or upland habitats; improve water quality; and control noxious weeds. All projects receiving reclamation funds must be connected to the waters or lands Reclamation administers.

8.9.2 State Programs

8.9.2.1 Washington State Conservation Commission (WSCC)

Conservation Reserve Enhancement Program – This program is a joint partnership between the State and USDA that is administered by the WSCC and the FSA. See Federal programs above.

8.9.2.2 Washington State Department of Ecology (Ecology)

Water Quality Financial Assistance – Ecology administers funding from three programs:

1. The Centennial Clean Water Fund (Centennial), which provides low-interest loans and grants for wastewater treatment facilities and fund-related activities to reduce nonpoint sources of water pollution.
2. The State Revolving Loan Fund (SRF), which provides low-interest loans for wastewater treatment facilities and related activities, or to reduce nonpoint sources of water pollution.
3. The Section 319 Nonpoint Source Grants Program (Section 319), which provides grants to reduce nonpoint sources of water pollution.

Examples of the type of projects that they have funded in the past:

- Planning, design, and construction of wastewater and stormwater treatment facilities.
- Agricultural best management practices projects.
- Stream and salmon habitat restoration.
- Local loan funds for water quality projects.
- Watershed planning.
- Water quality monitoring.
- Water reuse planning and facilities.
- Lake restoration.
- Wellhead protection.
- Acquiring wetland habitat for preservation.
- Construction of public boat pump-outs.
- Public information and education.

8.9.2.3 Salmon Recovery Funding Board

Salmon Recovery Funding Board (SRFB) – grants to provide funding of habitat protection and restoration projects and related programs and activities that produce sustainable and measurable benefits for fish and their habitat. Local governments, private landowners, conservation districts, Native American tribes, nonprofit organizations, and special purpose

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districts are eligible to receive funding. Private landowners are eligible applicants only when the project takes place on their own land. All projects must come through the local lead entity group and a Technical Advisory Group to the SRFB for final funding decisions.

8.9.2.4 Interagency Committee on Outdoor Recreation

Washington Wildlife and Recreation Program – This program provides funds for municipal subdivisions, tribes, and state agencies in seven categories, including critical habitat and natural areas. The recipients must be able to document at least a 50 percent match in funding for a project.

8.9.2.5 Washington State Department of Natural Resources

Aquatic Land Enhancement Grants – grants to state agencies, tribes, and local governments. The project sponsor must document a minimum 50 percent match in funds. Eligible projects must be associated with navigable waters and are limited to aquatic habitat acquisition projects (including conservation easements), restoration projects, and public access and development projects. Acquisition projects have first priority and restoration projects second priority.

8.9.3 Implementation and Monitoring

In addition to project monitoring required for individual restoration and/or mitigation projects, the Town should coordinate with the County to conduct system-wide monitoring of shoreline conditions and development activity, to the degree practical, recognizing that individual project monitoring does not provide an assessment of overall shoreline ecological health.

The County recommends the following approach:

1. Track information using GIS and the permitting software as activities occur, such as:
 - a. New shoreline development by permit type
 - b. Unresolved compliance issues
 - c. Mitigation areas
 - d. Restoration areas

The Town may require project proponents to monitor as part of project mitigation, which may be incorporated into this process. Regardless, as development and restoration activities occur in the shoreline area, the town should seek to monitor shoreline conditions to determine whether both project-specific and SMP overall goals are being achieved.

2. Periodically review and provide input to the regional ongoing monitoring programs/agencies, such as:
 - a. Washington Department of Ecology water quality monitoring
 - b. Washington Department of Fish and Wildlife

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- c. Upper Columbia Salmon Recovery Board
- d. Okanogan Basin Watershed Planning Unit
- e. Okanogan Conservation District

Through this coordination with regional agencies, the town should seek to identify any major environmental changes that might occur.

3. Periodic review of environmental processes and functions at the time of SMP updates to, at a minimum, validate the effectiveness of the SMP. The review should consider what restoration activities actually occurred compared to stated goals, objectives and priorities, and whether restoration projects resulted in a net improvement of shoreline resources. Under the Act, the SMP is required to result in no net loss of shoreline ecological functions. If this standard is found to not be met at the time of review, the county or town will be required to take corrective actions. The goal for restoration is to achieve a net gain in ecological function. The cumulative effect of restoration over the time between reviews should be evaluated along with an assessment of impacts of development that is not fully mitigated to determine effectiveness at achieving a net improvement to shoreline ecological resources.

To conduct a valid reassessment of the shoreline conditions every seven years, it is necessary to monitor, record, and maintain key environmental metrics to allow a comparison with baseline conditions. These metrics should be established as part of the coordination with county and state level agencies.

As monitoring occurs, the county and town should reassess environmental conditions and restoration objectives. Those ecological processes and functions that are found to be worsening may need to become elevated in priority to prevent loss of critical resources.

Evaluation of shoreline conditions, permit activity, GIS data, and policy and regulatory effectiveness should occur at varying levels of detail consistent with the Regional SMP update cycle and the Comprehensive Plan amendment cycle which takes place every 5 years. A complete reassessment of conditions, policies, and regulations should be considered every 7 years.

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9.0 ADMINISTRATION AND COMPLIANCE

9.1 ROLES AND RESPONSIBILITIES

A. Shoreline Administrator:

1. The Town Mayor or his/her designee shall serve as the Shoreline Administrator, and in the case of a Shoreline Substantial Development Permit (SDP) to grant or deny the permit. The administrator shall administer the shoreline permit and notification systems, and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulations regulating land use and development in the Town.
2. The Shoreline Administrator or his/her designee shall be familiar with regulatory measures pertaining to shorelines and their use, and, within the limits of his or her authority, shall cooperate in the administration of these measures. Permits issued under the provisions of this shoreline regulation shall be coordinated with other land use and development regulatory measures of the Town. The Shoreline Administrator shall establish procedures that advise all parties seeking building permits or other development authorization of the need to consider possible shoreline applications. It is the intent of the Town, consistent with its regulatory obligations, to simplify and facilitate the processing of Shoreline Substantial Development Permits.
3. The Shoreline Administrator or his/her designee shall ensure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Shoreline goals and policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional, legal and statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060 on the regulation of private property.
4. The Shoreline Administrator or his/her designee shall apply Section 9.0, Administration and Compliance for shoreline critical areas.
5. The Shoreline Administrator or his/her designee shall review Shoreline Substantial Development, Variances and Shoreline Conditional Use Permits pursuant to 9.1.5, 9.1.6 and 9.1.7.

B. Hearing Examiner:

1. The hearing examiner shall have the authority to decide on appeals from administrative decisions issued by the Shoreline Administrator of this SMP.

C. Town Council:

1. The Town Council is vested with authority to:

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- a. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
- b. Adopt all amendments to this SMP. Substantive amendments shall become effective immediately upon adoption by Ecology.

9.1.1 Interpretation

- A. Under the administrative provisions, the Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of this SMP and the Act.
- B. The Town shall consult with Ecology if formal written interpretations are developed as a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master Program to ensure that any are consistent with the purpose and intent of Chapter 1090.58 and 173-26 WAC.

9.1.2 Statutory Noticing Requirements

- A. At a minimum the Town shall provide notice in accordance with WAC 173.27-110, and may provide for additional noticing requirements

9.1.3 Application Requirements

- A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180.
- B. The Shoreline Administrator shall provide written informational materials, procedures, instructions, and forms, required to submit an application for a shoreline substantial development permit, variance, or conditional use permit.
- C. These materials should include but are not limited to a plan cover sheet; a JARPA form; SEPA checklist; fee schedule; review criteria; process and timelines to assist potential applicants and interested parties on the permit application submittal and review process.
- D. The Shoreline Administrator may vary or waive these requirements according to administrative application requirements on a case-by-case basis.
- E. The Shoreline Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other requirements, and the provisions of this SMP.

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9.1.4 Exemptions from Shoreline Substantial Development Permits

- A. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58 RCW, the Act, and this SMP whether or not a permit or other form of authorization is required.
1. Letters of exemption shall be issued by the Town when an exemption applies or when a letter of exemption is required by the provisions of WAC 173-27-050 and as follows:
 2. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator, except that no written statement of exemption is required for emergency development pursuant to WAC 173-27-040(2)(d)
 3. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 9.1.5 (C). The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.
 4. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and the Act.
 5. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Shoreline Administrator's decision may be appealed pursuant to Section 9.1.11.
 6. Exempt activities requiring a JARPA shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.
- B. Interpretations of Exemptions:
1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
 2. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a SCUP even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.
 3. The burden of proof that a development or use is exempt from the permit process is on the applicant.

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4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
 5. The Town may attach conditions to the approval of exempted developments and/or uses as necessary to ensure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with each responsible local government's ability to require compliance with all other applicable laws and plans.
- C. The Town shall exempt from the Shoreline Substantial Development Permit requirement the shoreline developments listed below:
1. Any development of which the total cost or fair market value does not exceed six thousand, four hundred, sixteen dollars (\$6,416) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the State. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
 2. Normal maintenance or repair of existing legally-established structures or developments, including damage by accident, fire, or elements. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
 3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than 1 cubic yard of fill per 1-foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the WDFW.

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4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58 these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter, RCW 90.58, and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.
6. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level, and which meets all requirements of the Town, other than requirements imposed pursuant to RCW 90.58. Construction authorized under this exemption shall be located landward of the ordinary high water mark.
7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system, including return flow and artificially stored ground water from the irrigation of lands.
8. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
9. Operation and maintenance of existing and future system of dikes, ditches, drains, or other facilities on irrigable lands or similar facilities existing on September 8, 1975 (where water is being drained from irrigation runoff or shallow groundwater levels artificially recharged through irrigation, and that) which are created, developed, or utilized primarily as a part of an agricultural drainage or diking system.
10. Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State Energy Facility Site Evaluation Council).
11. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of surface waters;

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- b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.
12. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.
13. Watershed restoration projects as defined in RCW 89.08.460.
14. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
- a. The project has been approved by WDFW;
 - b. The project has received HPA by WDFW pursuant to RCW 77.55; and
 - c. The Town has determined that the project is substantially consistent with the local SMP. The Town shall make such determination in a timely manner and provide it by letter to the applicant.
 - d. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local SMPs.
15. Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D.
16. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the Act or this Program (90.58.030(2)(d)(ii)).

9.1.5 Shoreline Substantial Development Permits

- A. A Shoreline Substantial Development Permit shall be required for all development on shorelines, unless the proposal is specifically exempted per Section 9.1.4. Shoreline Substantial Development permits shall be processed as set forth in the County's Code Section 17.34-Variances.
- B. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:
 - 1. The policies and procedures of the Act, RCW 90.58;



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2. The applicable provisions of WAC 173-27; and
 3. This SMP.
- C. The Town may attach conditions to the approval of permits as necessary to ensure consistency of the project with the Act and this SMP.
- D. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

9.1.6 Shoreline Conditional Use Permits (SCUPs)

- A. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shoreline Administrator and by Ecology. Applications for a SCUP shall be processed as set forth in the County's Code Section 17.34-Variances.
- B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
- C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.
- D. Review Criteria for SCUP. Uses that are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
1. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 2. That the proposed use will not interfere with the normal public use of public shorelines;
 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP;
 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 5. That the public interest suffers no substantial detrimental effect.
- E. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

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- F. In authorizing a conditional use, special conditions may be attached to the permit by the Town or Ecology to prevent undesirable effects of the proposed use and/or to ensure consistency of the project with the Act and this SMP.
- G. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

9.1.7 Shoreline Variance Permits

- A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Applications for Shoreline Variance Permits shall be processed as set forth in the County's Code Section 17.34 – Variances and shall comply with WAC 173-27-170
- B. Review Criteria
 - 1. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
 - 2. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in criterion 9.1.7 (B)(2)(a) of this subsection 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 SMP, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts on the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.

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3. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - b. That the proposal is consistent with the criteria established under Section 9.1.7(B)(2)(a)-(f) above can be met; and
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
4. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

9.1.8 Duration of Permits

- A. The duration of permits shall be consistent with WAC 173-27-090.

9.1.9 Initiation of Development

- A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by the Town shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the date of receipt of the decision. The date of filing for a Substantial Development Permit is the date of actual receipt by the department of Ecology of a local government's final decision on the permit. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of filing means the date a responsible local government or applicant receives the written decision of Ecology. When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.
- B. Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the Town including a combined permit application form. Such forms will be supplied by the Town.
- C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

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9.1.10 Review Process

- A. After the Town's approval of a Shoreline Conditional Use or Variance Permit, the Town shall submit the permit to Ecology for approval, approval with conditions, or denial. Ecology shall render and transmit to the Town and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the Town pursuant to WAC 173-427-110.
- B. Ecology shall review the complete file submitted by the Town on Shoreline Conditional Use or Variance permits and any other information submitted or available that is relevant to the application. Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the Act and, except as provided in 10 WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.
- C. The Town shall provide timely notification of Ecology's final decision to those interested persons having requested notification from local government pursuant to WAC 173-27-130.

9.1.11 Appeals

- A. Appeals of Shoreline Permit Decisions. Town of Conconully's decisions on Shoreline permits may be appealed to the following 'bodies' in this sequence, as applicable:
 - 1. Town of Conconully Hearings Examiner or in accordance with OCC 14.04 Appeals.
 - 2. State Shorelines Hearings Board (SHB) in Tumwater.
 - 3. SHB decisions may be appealed to superior court.
 - 4. Superior court decisions may be appealed to the Court of Appeals
 - 5. Appeals Court decisions may be appealed to the Washington Supreme Court
 - 6. Appeals to the SHB and courts are governed by RCW 90.58.180, RCW 2443.21B.001, RCW 34.05 Part V, and WAC 461.08.
- B. All requests for review of any final permit decisions under chapter 90.58 RCW and chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines hearings board.

9.1.12 Amendments to Permits

- A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the SMP and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

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B. Revisions to permits shall be considered consistent with WAC 173-27-100.

9.1.13 Enforcement

- A. The Act provides for a cooperative program between the Town and Ecology to implement and enforce the provisions of the Act and this SMP. This Section provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, and orders to take corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290, 173-27-300 and OCC 17.38. The enforcement means and penalties provided herein are not exclusive and may be taken or imposed in conjunction with, or in addition to, any other civil enforcement actions and civil penalties, injunctive or declaratory relief, criminal prosecution, actions to recover civil or criminal penalties, or any other action or sanction authorized by this Section, or any other provision of the Town Code and Land Use Code, or any other provision of state or federal law and regulation.
- B. The Shoreline Administrator, with the assistance of the Town's attorney, shall have authority to commence and prosecute any enforcement action authorized by this section. In determining the appropriate enforcement actions to be commenced and prosecuted, the Administrator shall consider the following factors:
1. The nature of the violation;
 2. The extent of damage or potential future risk to the shoreline environment and its ecological functions or to the public health and safety, caused by or resulting from, whether directly or indirectly, the alleged violation;
 3. The existence of knowledge, intent, or malice on behalf of the violator;
 4. The economic benefit or advantage that accrued to the violator(s) as a result of the violation; and
 5. The estimated actions and costs of providing adequate mitigation, restoration, rehabilitation, or enhancement, to repair or minimize any substantial adverse impacts upon the shoreline environment and its ecological functions, or the public health and safety.
- C. The Shoreline Administrator may commence and prosecute enforcement action jointly with Ecology. Pursuant to WAC Chapter 173-27, Ecology may initiate and prosecute enforcement action separate from the Shoreline Administrator.

9.1.14 Cumulative Effects of Shoreline Developments

- A. The Town will periodically evaluate the effectiveness of the SMP update for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions. At the end of 2017 and at the end of every other year thereafter the Shoreline Administrator shall prepare a report of shoreline development permits, conditional permits and variances including the exempt use activity approvals and the locations and effects of each, by type

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and classifications. The report should include activities involving development, conservation, restoration, mitigation, and enforcement. It should summarize the net change of developments (including new development, decommissioning of structures and protected areas) using indicators such as linear length of stabilization and flood hazard structures, number of overwater structures (piers, docks etc.), road length within shoreline, number of water body road crossings, number of levees/dikes, acres of impervious surface areas, acres of vegetation, acres of permanently protected areas or areas with limited development. Compliance and enforcement activity will also be tracked.

- B. The Shoreline Administrator will, to the extent feasible, coordinate with other departments of the Town or as adjacent jurisdictions, to assess cumulative effects of shoreline development.

9.1.15 Amendments to Shoreline Master Program

- A. Amendments to the Program shall be processed as legislative decisions pursuant to WAC 173-26-110 as mentioned in this subsection. A complete submittal shall include two copies of the following, where applicable:
 - 1. Documentation (i.e., signed resolution or ordinance) that the proposal has been approved by the local government;
 - 2. If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document.
 - 3. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;
 - 4. Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. All proposals for changes in environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;
 - 5. A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;
 - 6. Evidence of compliance with chapter 43.21C RCW, the SEPA, specific to the proposal;
 - 7. Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100;

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8. Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government review process or, where no comments have been received, a comment to that effect.
 9. A copy of the master program submittal checklist completed in accordance with WAC 173-26-201 (2)(f) and (3)(a) and (h).
 10. For comprehensive master program updates, copies of the inventory and characterization, use analysis, restoration plan and cumulative impacts analysis.
- B. Any locally approved amendments to the SMP will not become effective until approved by Ecology.

9.1.16 Definitions

"Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

"Adjacent," for purposes of applying Section 6.3 – Critical Areas, means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

- a. On-site immediately adjoining a critical area; or
- b. A distance equal to or less than the required critical area buffer width and building setback.

"Adoption by rule" means an official action by the department to make a local government SMP effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted SMP or amendment into the state master program.

"Agency consultation" means consultation with state or federal agencies, including but not limited to those listed below, for the intended purposes. "Agency consultation" does not mean "Endangered Species Section 7 Consultation."

- a. WDFW and/or the USFWS for the purpose of making a preliminary determination regarding the presence of priority habitats and species and the potential impacts of a development proposal on such habitats and species.
- b. The Washington State Department of Natural Resources Natural Heritage Program for the purpose of making a preliminary determination regarding impacts of a development proposal on rare or sensitive plant and animal species associated with wetlands and aquatic ecosystems.
- c. Ecology for the purpose of making a preliminary determination regarding impacts of a development proposal on wetlands and aquatic ecosystems.

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- d. Ecology for the purpose of making a preliminary determination regarding impacts of a development on groundwater resources and aquifer recharge areas.
- e. The Washington State Department of Natural Resources Division of Geology and Earth Science for the purpose of making a preliminary determination regarding geologically hazardous areas, especially earthquakes and seismic activity.
- f. The NRCS for the purpose of making a preliminary determination regarding geologically hazardous areas as they pertain to slope, soil type, other soil characteristics, and other erosive properties of soils.

"Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Also see definition of "New Agricultural Activities" below.

"Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products.

"Agricultural equipment" includes, but is not limited to:

- a. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; farm residences and associated equipment, lands, and facilities; and roadside stands and on-farm markets for marketing fruit or vegetables.

"Agricultural facilities". See "Agricultural equipment."

"Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these

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guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program.

"Alteration," for purposes of applying Section 6.3 – Critical Areas, means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for stormwater management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value, of critical areas.

"Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing SMP.

"Applicant" means a person who files an application for a permit under this SMP and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

"Approval" means an official action by a local government legislative body agreeing to submit a proposed SMP or amendments to Ecology for review and official action pursuant to this chapter; or an official action by Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

"Aquifer recharge area" means an area that, due to the presence of certain soils, geology, and surface water, acts to recharge ground water by percolation.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Assessed value" means assessed valuation shall be as established by the Town assessor's office, unless otherwise provided by a market appraisal institute (MAI) appraisal.

"Associated wetlands" are those wetlands which are in proximity to, and either influence or are influenced by, a stream subject to the Act.

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

"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." "Base flood elevation" means

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the water surface elevation of the base flood. It shall be referenced to the North American Vertical Datum of 1988 (NAVD).

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Best management practices" (BMPs) means conservation practices or systems of practice and management measures that:

- a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
- b. Minimize adverse impacts on surface water and ground water flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands;
- c. Protect trees and vegetation designated to be retained during and following site construction; and
- d. Provides standards for proper use of chemical herbicides within critical areas.

"Buffer" means the zone contiguous with a critical area that is required for the continued maintenance, function, and structural stability of the critical area.

"Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

"Clearing" means the cutting, killing, grubbing, or removing of vegetation or other organic material by physical, mechanical, chemical, or any other similar means.

"Community access" means a shoreline access available to a group or community (e.g. home owners association) which may not be accessible to general public.

"Compensation project" means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include, but are not limited to, land acquisition, planning, construction plans, monitoring, and contingency actions.

"Compensatory mitigation" means types of mitigation used to replace project- induced critical area and buffer losses or impacts.

"Critical aquifer recharge area (CARA)" means areas designated by WAC 365-190-080(2) that are determined to have critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

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"Critical areas" include the following areas and ecosystems: aquifer recharge areas (i.e., areas with a critical recharging effect on aquifers used for potable water); fish and wildlife habitat conservation areas; frequently flooded areas; geologically hazardous areas; and wetlands.

"Crown" means the area of a tree containing leaf- or needle-bearing branches.

"Cultural and historic resources" means buildings, sites and areas having archaeological, historical, cultural or scientific value or significance.

"Data Maps" means that series of maps maintained by the Town for the purpose of graphically depicting the boundaries of resource lands and critical areas.

"Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this SMP.

"Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk heading; 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 act at any stage of water level.

"Development Application" means an application tendered under the provision of subdivision and zoning ordinances for a conditional use permit, rezone or planned development, or an application submitted pursuant to the subdivision and zoning ordinance for a preliminary major subdivision or short plat.

"Development permit" means any permit issued by the Town of Conconully, or other authorized agency, for construction, land use, or the alteration of land.

"DSH" means the diameter at standard height; the diameter of the trunk measured 54 inches (4.5 feet) above grade.

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

"Ecology" means the Washington State Department of Ecology.

"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.

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"Erosion" means the process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.

"Erosion hazard area" means those areas that, because of natural characteristics including vegetative cover, soil texture, slope gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

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

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

"FEMA – Federal Emergency Management Agency" means the agency that oversees the administration of the National Flood Insurance Program (NFIP) (44 CFR).

"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.

"Fish and wildlife habitat conservation areas" means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130. These areas include:

- a. Federally designated endangered, threatened and sensitive species. Areas with which federally designated endangered, threatened and sensitive species have a primary association. Federally designated endangered and threatened species are those fish and wildlife species identified by the USFWS and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The USFWS and the National Marine Fisheries Service should be consulted for current listing status.
- b. State designated endangered, threatened and sensitive species. Areas with which state designated endangered, threatened and sensitive species have a primary association.

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- c. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State identified by the WDFW, 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 WDFW maintains the most current listing and should be consulted for current listing status.
- d. 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 WDFW.
- e. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the Town, 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 with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term.
- f. All areas within the town meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to the provisions of the SMP.

“Flood event” means any rise in the surface elevation of a water body to a level that causes the inundation or submersion of areas normally above the Ordinary High Water Mark.

“Flood” or “flooding” mean a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff or surface waters from any source.

“Flood hazard area” means any area subject to inundation by the base flood or risk from channel migration including, but not limited to, an aquatic area, wetland, or closed depression.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones (44 CFR Part 59).

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“Flood insurance study” means the official report provided by the Federal Emergency Management Agency that includes the flood profiles, the FIRM, and the water surface elevation of the base flood (44 CFR Part 59).

“Flood protection elevation” means an elevation that is one foot or more above the base flood elevation.

“Floodplain” is synonymous with one hundred-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.

“Floodproofing” means adaptations that ensure a structure is substantially resistant to the passage of water below the flood protection elevation and resists hydrostatic and hydrodynamic loads and effects of buoyancy.

“Floodway” means the area, as identified in a master program, that either:

- a. Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or
- b. consists of those portions of a river valley lying stream ward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

“Floodway dependent structure,” for purposes of applying Section 6.3 – Critical Areas, means structures such as, but not limited to, dams, levees and pump stations, stream bank stabilization, and related recreational structures, bridge piers and abutments, and fisheries enhancement or stream restoration projects.

“Formation” means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

“Formation, confining” means the relatively impermeable formation immediately overlaying a confined aquifer.

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"Frequently flooded areas" means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the Shoreline Administrator, in accordance with WAC 365- 190-080(3). Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the FEMA and NFIP.

"Functions" and "values," for purposes of applying Section 6.3 – Critical Areas, mean the beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, conveyance and attenuation, ground water recharge and discharge, erosion control, and recreation. "Functions" and "values" may be considered independently, with functions being measured indicators such as water quality, hydrologic functions, and habitat functions and values being non-measured indicators such as local importance, potential qualities, or recreational benefits.

"Geologically hazardous areas" means areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard.

"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 on adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

"Grading" 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.

"Ground cover" means all types of vegetation other than trees.

"Guidelines" means those standards adopted by the department to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of

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master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

“Hazard areas” means areas designated as geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions, including steep slopes.

“Hazard tree” means any tree with any significant structural defect, disease, extreme size or combinations of these which make it subject to failure, as determined by the Shoreline Administrator or her/his designee.

“Hazardous substance(s)” means:

- a. A hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act; any substance designated pursuant to Section 311(b)(2)(A) of the CWA; any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under Section 307(a) of the CWA; or any imminently hazardous chemical substance or mixture with respect to which the EPA has taken action pursuant to Section 7 of the Toxic Substances Control Act;
- b. Hazardous substances that include any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100. 75.

“High-intensity land use” means land uses consisting of commercial, urban, industrial, institutional, retail, residential with more than one unit per acre, agricultural (dairies, nurseries, raising and harvesting crops, requiring annual tilling, raising and maintaining animals), high-intensity recreation (golf courses, ball fields), and hobby farms.

“Hydraulic project approval” means a permit issued by WDFW for modification to waters of the state in accordance with Chapter 77.55 RCW.

“Impervious surface area” means any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, and excluding landscaping and surface water retention/detention facilities.

“In-stream structures” function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreation, or fisheries enhancement.

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"Invasive, non-native vegetation species" means the plants listed for Eastern Washington in Washington State Noxious Weed Board Publication # 820- 264E (N/6/09), or the latest version of this document.

"Isolated wetland" means those wetlands and their buffers that are outside of the following critical areas and their buffers, where applicable: lake, river, stream, or wetland. Isolated wetlands have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Landslide" means episodic down slope movement of a mass of soil or rock that includes, but is not limited to, rock falls, slumps, mudflows, and earth flows.

"Landslide hazard areas" means areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

"Low-intensity land use" includes, but is not limited to, forestry and open space (such as passive recreation and natural resources preservation).

"May" means the action is acceptable, provided it conforms to the provisions of this chapter.

"Mine Hazard Area" - areas underlain by, adjacent to, or affected by, mine workings such as adits, gangways, tunnels, drifts or air shafts.

"Minor utility project" means the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, where the disturbance of an area is less than 75 square feet.

"Mitigation sequencing" means the process of avoiding, reducing, or compensating for the adverse environmental impact(s) of a proposal, including the following actions, listed in the order of preference, a. being the most preferred:

- a. avoiding the adverse impact altogether by not taking a certain action or parts of an action;
- b. minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- c. rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment;
- d. reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action;
- e. compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments; and
- f. monitoring the adverse impact and the compensation projects and taking appropriate corrective measures.

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"Moderate-intensity land use" includes, but is not limited to, residential at a density of one unit per acre or less, moderate intensity open space (parks), agriculture (moderate intensity land uses such as orchards and hay fields).

"Monitoring" means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

"Must" means a mandate; the action is required.

"Native vegetation" means plant species that are indigenous to the region.

"New agricultural activities" are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use.

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following are considered conforming structures: setbacks, buffers, or yards; area; bulk; height; or density.

"New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this SMP.

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

"Normal maintenance" means those usual acts that are necessary to prevent a property's decline, lapse, or cessation from a lawfully established condition.

"Normal repair" means to restore a structure or development to a state comparable to its original condition including, but not limited to, its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse impacts on shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development, and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse impacts on shoreline resources or environment.

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"Ordinary high water mark (OHWM)" means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change or change through North Fort/West Fork Salmon Creek hydrology thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. Where the OHWM cannot be found, it shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

"Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact on critical areas.

"Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- a. Comparatively high fish or wildlife density;
- b. Comparatively high fish or wildlife species diversity;
- c. Fish spawning habitat;
- d. Important wildlife habitat;
- e. Important fish or wildlife seasonal range;
- f. Important fish or wildlife movement corridor;
- g. Rearing and foraging habitat;
- h. Refugia habitat;
- i. Limited availability;
- j. High vulnerability to habitat alteration;
- k. Unique or dependent species;
- l. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

- a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014),

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- threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the WDFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-1512-297.
- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate.
 - c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
 - d. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

"Public Access" means both physical and visual access. Examples are listed below:

- a. Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters.
- b. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, canoe and kayak hand launch site, or other area serving as a means of physical approach to public waters.

"Public agency" means every Town, Town, state, or federal office, every officer, every institution, whether educational, correctional, or other, and every department, division, board, and commission that provides services or recommendations to the public or other such agencies.

"Public utility" means a public service corporation performing some public service subject to special governmental regulations, or a governmental agency performing similar public services, either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas, and transportation for persons and freight.

"Qualified professional" means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or shoreline subject. A qualified professional must have obtained a B.S., B.A. or equivalent degree or certification in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and two years of related work experience.

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- a. A qualified professional for wildlife, habitats or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience in Washington State.
- b. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- c. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.
- d. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.
- e. A qualified archaeologist must be a person qualified for addressing cultural and historical resources protection and preservation, with a degree in archaeology, anthropology, history, classics or other germane disciplines with a specialization in archaeology and/or historic preservation and with a minimum of two years' experience in preparing cultural resource site assessments reports.

"Recreational development" means the modification of the natural or existing environment to accommodate commercial and public facilities designed and used to provide recreational opportunities to the public. Commercial recreational development should be consistent with commercial development defined herein.

"Recreational vehicle" means a vehicle designed primarily for recreational camping, travel, or seasonal use that has its own mode of power or is mounted on or towed by another vehicle, including, but not limited, to travel trailers, folding camping trailer, truck camper, motor home, and multi-use vehicles.

"Residential development" entails one or more buildings, structures, lots, parcels or portions thereof that are designed, used or intended to be used as a place of abode for human beings. These include single-family residences, residential subdivisions, short residential subdivisions, attached dwellings, and all accessory uses or structures normally associated with residential uses. Accessory residential uses include, but are not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas and guest cottages. Hotels, motels, dormitories or any other type of overnight or transient housing are excluded from the residential category and must be considered commercial uses depending on project characteristics.

"Restore", "Restoration" or "ecological restoration" means the reestablishment or upgrading of impaired natural or enhanced ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, 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.

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"Riparian habitat" means areas adjacent to aquatic systems with flowing water that contains elements of both aquatic and terrestrial ecosystems that mutually influence each other.

"Salmonid" means a member of the fish family Salmonidae. In Conconully: Chinook salmon; cutthroat and rainbow trout.

"Section 404 Permit" means a permit issued by the Army Corp of Engineers for the placement of dredge or fill material waterward of the OHWM or clearing in waters of the U.S., including wetlands, in accordance with 33 United States Code (USC) Section 1344.

"Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

"Shall" means a mandate; the action must be done.

"Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

"Shoreline master program", "SMP", or "master program" 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. As provided in RCW 36.70A.480, the goals and policies of a SMP for a Town or Town approved under chapter 90.58 RCW shall be considered an element of the Town or Town's comprehensive plan. All other portions of the SMP for a Town or Town adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the Town or Town's development regulations.

"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, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

"Shoreline stabilization" means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this chapter, against taking the action.

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"Significant tree" means any evergreen tree, other than holly, of at least 15 inches DSH and any deciduous tree, other than poplar trees, at least 12 inches DSH. Poplar trees, holly, and other invasive trees of any size are not considered significant trees.

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts on functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

"Snag" means the remaining trunk of a dying, diseased, or dangerous tree that is reduced in height and stripped of all live branches

"Species and habitats of local importance" means those species that may not be endangered, threatened, or critical from a state-wide perspective, but are of local concern due to their population status, sensitivity to habitat manipulation, or other educational, cultural, or historic attributes. These species may be priority habits, priority species, and those habitats and species identified in the critical areas code as having local importance (e.g., elk).

"Species, threatened and endangered" means those native species that are listed by the WDFW pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered under the federal Endangered Species Act (16 U.S.C. 1533).

"Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit issuance date. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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"Steep slopes" means those slopes (excluding Town-approved geotechnical engineered slopes) 40 percent or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

"Stream" means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

"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.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which exceeds 50 percent of the assessed value of the structure before the improvement or repair is started. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term can exclude:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement or building official and are the minimum necessary to ensure safe living conditions; or
- b. Any alteration of a historic structure; provided, that the alteration will not preclude the structure's continued designation as a historic structure.

"Substantially degrade" means to cause significant ecological impact.

"Thinning" means the evenly spaced noncommercial removal of up to 40 percent of trees and woody shrubs.

"Topping" means the severing of main trunks or stems of vegetation at any place above 25 percent of the vegetation height.

"Town" means the Town of Conconully.

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"Transportation facilities" are those structures and developments that provide for the movement of people, goods and services. These include roads and highways, railroad facilities, bridges, parking facilities, bicycle paths, trails and other related facilities.

"Tree removal" means the removal of a tree, through either direct or indirect actions, including but not limited to: (a) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (b) removal of at least half of the live crown; or (c) damage to roots or trunk that is likely to destroy the tree's structural integrity.

"Trees" means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of four inches or more measured 24 inches above ground level

"Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

"Understory" means the vegetation layer of a forest that includes shrubs, herbs, grasses, and grass-like plants, but excludes trees.

"Urban Growth" means activities that make intensive use of land for the location of building, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources.

"Urban Growth, characterized by" means lands having urban growth on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth; or any and all incorporated areas.

"Utility" means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications (including, but not limited to, telephone and cable), sewage, oil, and the like.

"Vegetation" means plant life growing below, at, and above the soil surface.

"Vegetation alteration" means any clearing, grading, cutting, topping, limbing, or pruning of vegetation.

"Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

"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

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general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

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

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

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

The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

"WDFW" means the Washington Department of Fish and Wildlife.

"Weir" means a structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

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

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10.0 REFERENCES

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Appendix A Shoreline Exhibits, Data, and Maps
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Appendix B Shoreline Inventory
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