

Department of Ecology Grants No. G1000053 and SEASMP-1719-Roy-00003



# City of Roy

## Shoreline Master Program

*Environment Designations, Policies & Regulations*

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# Contents

- Chapter 1: Introduction ..... 6
  - A. History and Requirements of the Shoreline Management Act ..... 6
  - B. Master Program Development and Public Participation ..... 6
  - C. Purposes of the Shoreline Master Program ..... 7
  - D. Legislative Findings and Washington Shoreline Management Policies ..... 7
  - E. Organization of this Shoreline Master Program ..... 8
  - F. Shoreline Master Program Basics ..... 8
  - G. Relationship of this Shoreline Master Program to Other Plans ..... 9
  - H. Title ..... 10
- Chapter 2: Environment Designation Provisions ..... 11
  - A. Introduction to Shoreline Environment Designations ..... 11
  - B. Need for Consistency ..... 11
  - C. City of Roy Shoreline Environment Designations & Map ..... 11
  - D. Shoreline Areas Not Mapped or Designated ..... 12
  - E. Policies and Regulations ..... 12
    - 1. Shoreline Residential Environment ..... 12
    - 2. Urban Conservancy Environment ..... 13
    - 3. Aquatic Environment ..... 15
- Chapter 3: General Shoreline Provisions ..... 17
  - A. Introduction ..... 17
  - B. Policies and Regulations ..... 17
    - 1. Universally Applicable Policies and Regulations ..... 17
    - 2. Archaeological and Historic Resources ..... 18
    - 3. Critical Areas ..... 20
    - 4. Environmental Impacts ..... 20
    - 5. Flood Hazard Reduction ..... 22
    - 6. Public Access ..... 23
    - 7. Restoration ..... 28
    - 8. Vegetation Conservation ..... 29
    - 9. Water Quality and Quantity ..... 32

Chapter 4: Shoreline Use Provisions.....	35
A. Introduction .....	35
B. Basic Shoreline Use and Development Standards.....	35
1. Table 1 – Permitted, Conditional and Prohibited Uses.....	35
2. Table 2 – Basic Development Standards.....	37
C. Shoreline Use Policies and Regulations .....	38
1. General Use Policies .....	38
2. Agriculture .....	39
3. Aquaculture.....	41
4. Boating Facilities.....	41
5. Commercial Development .....	41
6. Forest Practices .....	42
7. Industry .....	43
8. In-Stream Structures.....	43
9. Mining.....	43
10. Parking .....	43
11. Recreational Development.....	44
12. Residential Development .....	47
13. Signs .....	48
14. Transportation Facilities .....	49
15. Utilities (Primary).....	51
16. Utilities (Accessory) .....	52
Chapter 5: Shoreline Modification Provisions.....	55
A. Introduction .....	55
B. Table of Shoreline Modification Activities .....	55
1. Interpretation of Shoreline Modification Table .....	55
C. General Modifications.....	56
1. Applicability.....	56
2. General Modification Policies and Regulations.....	56
D. Shoreline Stabilization .....	57
1. Applicability and Definitions .....	58
2. General Policies and Regulations .....	59

E. Dredging and Disposal .....	65
1. Applicability .....	65
2. Dredging Policies and Regulations .....	66
F. Fill.....	67
1. Applicability .....	67
2. Fill Policies and Regulations .....	68
G. Overwater Structures .....	70
1. Applicability .....	70
2. Policies .....	70
3. Regulations .....	70
Chapter 6: Administration .....	71
A. Purpose and Applicability.....	71
B. Program Administrator .....	71
C. Review Criteria for All Development .....	72
D. Exemptions .....	73
E. Permit Process .....	76
F. Substantial Development Permits.....	77
G. Variances .....	77
H. Conditional Uses.....	78
I. Time Requirements of Permit .....	79
J. Nonconforming Use and Development Standards .....	80
K. Appeal to the State Shoreline Hearings Board .....	82
L. Enforcement and Penalties .....	82
M. Master Program Review .....	82
N. Amendments to the Master Program .....	82
O. Severability .....	83
P. Conflict of Provisions.....	83
Q. Exceptions to Local Review.....	83
R. Special Procedures for WSDOT Projects.....	84
Chapter 7: Definitions.....	85
Appendix 1: Maps .....	98



# Chapter 1: Introduction

## A. History and Requirements of the Shoreline Management Act

In 1972, the public adopted Washington's Shoreline Management Act (SMA) by referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The SMA has three broad policies:

1. *Encourage water-dependent uses:* "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."
2. *Protect shoreline natural resources,* including, "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."
3. *Promote public access:* "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and people generally."

The Act recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the City of Roy (City), recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparation of a "Master Program" to determine the future of the shorelines.
3. Development of a permit system to further the goals and policies of both the act and the local Master Plan.
4. Development of a Restoration Plan that includes goals, policies and actions for restoration of impaired shoreline ecological functions.

## B. Master Program Development and Public Participation

The City obtained grant number G1000053 from the Washington Department of Ecology (Ecology) in 2009 to conduct a comprehensive Shoreline Master Program (SMP) update. The first step of the update process was to inventory the City's shorelines as defined by the state's SMA (RCW 90.58). Muck Lake and its associated wetlands and Muck Creek comprise the SMA shorelines in the City. The inventory described existing biological and physical conditions. These conditions were then

analyzed and characterized to create a baseline from which future development actions in the shoreline will be measured.

Environmental designations were identified for the different shoreline reaches and goals, policies, and regulations for each were developed.

The Guidelines require that the City demonstrate that its updated SMP yields “no net loss” in shoreline ecological functions relative to the baseline due to its implementation. Ideally, the SMP in combination with other City and regional efforts will ultimately produce a net improvement in shoreline ecological functions.

## **C. Purposes of the Shoreline Master Program**

The purposes of this Master Program are:

1. To carry out the responsibilities imposed on the City by the Washington State SMA (RCW Chapter 90-58).
2. To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City.
3. To further, by adoption, the policies of RCW Chapter 90-58, and the goals of this Master Program, both which hereafter follow.
4. To comply with the SMP Guidelines (WAC Chapter 173-26), including a particular focus on including regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

## **D. Legislative Findings and Washington Shoreline Management Policies**

The Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever-increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state.

The legislature further finds that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest. Therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all-reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of

the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.

## E. Organization of this Shoreline Master Program

This Master Program is divided into seven Chapters:

- Chapter 1: *Introduction* provides general background information on the state SMA; the development of the SMP in the City; and a general discussion of when and how a SMP is used.
- Chapter 2: *Shoreline Environments* defines and maps the shoreline jurisdiction in the City and defines and maps the shoreline environment designations of all the shorelines of the state in the City. Policies and regulations specific to the three designated shoreline environments (Shoreline Residential, Urban Conservancy, and Aquatic) are detailed in this chapter.
- Chapter 3: *General Policies and Regulations* set forth the general policies and regulations that apply to uses, developments, and activities in all shoreline areas of the City.
- Chapter 4: *Specific Shoreline Use Policies and Regulations* sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development, Forest Practices, Industry, In-Stream Structures, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Utilities (Primary and Accessory).
- Chapter 5: *Shoreline Modification Activity Regulations* provides policies and regulations for those activities that modify the physical configuration or qualities of the shoreline area.
- Chapter 6: *Administration* provides the system by which the City's SMP will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.
- Chapter 7: *Definitions* defines terms found in this document.

## F. Shoreline Master Program Basics

The City's SMP is a planning document that outlines goals and policies for the shoreline of the City and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of the City, it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's SMP, and that the City Shoreline Administrator, as appointed by the Mayor, be consulted. Some developments may be exempt from regulation, while others may need to stay within established guidelines, or may require

a conditional use permit application or variance application. All proposals must comply with the policies and regulations established by the state SMA as expressed through this local SMP adopted by the City, regardless of whether a permit is required.

The SMA defines for local jurisdictions the content and goals that should be represented in the SMPs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the Act, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment.

The City has designated its shorelines under three shoreline environments: Shoreline Residential, Urban Conservancy, and Aquatic. These environments are described in Chapter 3: General Shoreline Provisions. A description and map of the area within the jurisdiction of this SMP are presented in Chapter 3: Shoreline Environments and in the Appendix as Figure 1.

Persons proposing any shoreline development, land use, or other projects in the shoreline area must consult with the City's Shoreline Administrator to determine how the proposal is addressed in the Master Program.

The City's Shoreline Administrator will determine if a proposal is exempt from a Shoreline Substantial Development Permit (i.e. qualifies for a Shoreline Exemption), as well as provide information on the permit application process.

Requests for a variances, conditional use permits, and substantial development permits require review and recommendation by the City's Shoreline Administrator, with the decision by the Hearing Examiner. Requests for conditional uses and variances also require final approval by Ecology. A description of exempt projects, shoreline application procedures and criteria are discussed in Chapter 6: Administration.

## **G. Relationship of this Shoreline Master Program to Other Plans**

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional or federal statutes or regulations, which may also be applicable to such development or use. In the City, other plans and policy documents that must be considered include the City's Comprehensive Plan and the adopted Surface Water Design Manual.

Proposals must also comply with the regulations developed by the City to implement its plans, such as subdivision, zoning and critical areas codes, as well as regulations relating to building construction and safety.

At the time of a permit application or an initial inquiry, the City's Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the administrator's knowledge; provided, that the final responsibility for complying with such other statutes and regulations shall rest with the applicant.

## **H. Title**

This document shall be known and may be cited as the City of Roy's Shoreline Master Program or SMP. This document may refer to itself as "The Master Program."

# Chapter 2: Environment Designation Provisions

## A. Introduction to Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline. Shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and consistency with the City of Roy's comprehensive plan and zoning.

The City of Roy has adopted three designations:

- "Shoreline residential" is intended to accommodate residential development, and appropriate public access and recreational uses consistent with other elements of shoreline management.
- "Urban conservancy" is a designation designed to protect and restore the ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed areas.
- "Aquatic" is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark (OHWM).

## B. Need for Consistency

The SMA requires that policies for lands adjacent to the shorelines be consistent with the SMA, implementing rules, and the local SMP. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act (GMA) requires that SMP policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the GMA, all development regulations must be consistent with the comprehensive plan. The City of Roy's SMP was developed to be consistent with its adopted comprehensive plan and development regulations.

## C. City of Roy Shoreline Environment Designations & Map

This Master Program establishes three shoreline environments for the City. These environments are derived from the City's Shoreline Inventory and Characterization Report, the City's Comprehensive Plan, and the environments recommended by the SMA and the Shoreline Guidelines. The City's Shoreline Inventory and Characterization Report provided an inventory of natural and built conditions within the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments selected. The three (3) City shoreline environment designations in order of most intensive to least intensive are:

1. Shoreline Residential,

2. Urban Conservancy, and
3. Aquatic

These shoreline environments are illustrated for the City in Figure 2 located in Appendix 1, and described in the text below. Each shoreline environment description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards specific to that shoreline environment. Shoreline development standards are summarized in Table 2 in Chapter 4 and regulations that apply throughout the SMP (except where specifically provided) are included at the end of this Chapter.

## **D. Shoreline Areas Not Mapped or Designated**

Any undesignated shorelines in the City are assigned automatically an Urban Conservancy Environment designation. This includes any areas that are annexed into the City that fall within the City's shoreline jurisdiction.

## **E. Policies and Regulations**

### **1. Shoreline Residential Environment**

#### *a) Purpose*

The Shoreline Residential shoreline environment designation is designed to provide for residential uses where necessary facilities for development can be provided. An additional purpose is to provide public access and recreational uses, as well as limited commercial uses on lands zoned for that purpose under Roy City Code (RCC) Title 11, which are functionally separated from Muck Creek by existing streets.

#### *b) Designation Criteria*

The Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development. In addition, this designation is assigned to those shoreline areas where there are limited developed areas of non-water-oriented commercial uses without direct access to the shoreline.

#### *c) Designated Areas*

##### *Description*

The Shoreline Residential environment designation area includes those properties on both sides of Muck Creek, including the City Park, that are developed currently as single-family, multi-family or non-water-oriented commercial without direct access to the shoreline, and where those uses are anticipated to continue in the future.

### *d) Management Policies*

1. Residential activities are preferred over other land and resource consumptive development or uses, except those limited areas of existing non-water-oriented commercial activities without direct access to the shoreline may continue to exist.
2. Limited non-residential uses, such as parks, family day cares, and home occupation businesses may be allowed in those areas of the designation that are zoned for residential use under RCC Title 11, provided they are consistent with the residential character.
3. Development should be located, sited, designed and maintained to protect, enhance and be compatible with the shoreline environment.
4. Development regulations should require the preservation of ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
5. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be encouraged.
6. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.
7. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.

## **2. Urban Conservancy Environment**

### *a) Purpose*

The purpose of the Urban Conservancy environment shoreline designation is to protect and restore ecological functions of open space and other sensitive lands where they exist in urban and developed settings, while allowing a variety of water oriented uses and uses consistent with effective environmental management. The designation will provide for ecological protection and rehabilitation in relatively undeveloped shoreline areas anticipated for or containing existing agricultural, recreation, and open space uses and limited development suitable to lands characterized by ecological and flood hazard constraints.

### *b) Designation Criteria*

Include within the Urban Conservancy environment designation those shorelines and shoreland areas that most closely match the following characteristics:

1. They are suitable for water-related or water-enjoyment uses;
2. Areas containing extensive agricultural or recreational uses;
3. They are open space, flood plain, wetland or wetland buffer, stream buffer or other sensitive areas that should not be more intensively developed;
4. They have the potential for development that is compatible with ecological restoration;
5. Areas with existing non-water dependent shoreline development that will not be expanded;
6. They have potential for ecological restoration;
7. Areas that retain important ecological functions, even though partially developed; and
8. Newly annexed areas where there is no designation.

### *c) Designated Areas*

#### *Description*

The Urban Conservancy environment designation is assigned to shoreline areas that are next to Muck Lake.

### *d) Management Policies*

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or critical areas directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
2. Standards should be established for vegetation conservation, water quality, and shoreline modifications within the 'Urban Conservancy' designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.
3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
4. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be encouraged.

5. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.
6. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.
7. Water-oriented uses should be given priority over non-water oriented uses.
8. Non-water oriented uses should not be allowed except in the following cases:
  - a. In limited situations where they do not conflict with or limit opportunities for water-oriented uses and non-mixed uses or on site where there is no direct access to the shoreline or the water body is not navigable; or
  - b. Where the site is separated physically from the shoreline by another property or public right-of-way.

### **3. Aquatic Environment**

#### *a) Purpose*

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

#### *b) Designation Criteria*

Any lands waterward of the OHWM shall be assigned an Aquatic shoreline environment designation.

#### *c) Designated Areas*

##### *Description*

All lands below the OHWM on Muck Creek and Muck Lake shall be assigned an Aquatic shoreline environment designation. This includes the portion of Muck Lake within the City.

#### *d) Management Policies*

1. Aside from bridges for motorized or non-motorized uses, over-water structures are not allowed.
2. The size of new bridges for motorized or non-motorized uses 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 uses of over-water bridges for motorized or non-motorized uses should be encouraged.
4. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW

90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26.201(2)(e) as necessary to assure no net loss of ecological functions.

5. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.

# Chapter 3: General Shoreline Provisions

## A. Introduction

Based on the general goals established for the SMP, the following policies and regulations apply to all uses, developments, and activities in the shoreline areas of the City. General policies and regulations are broken into different topic headings and arranged alphabetically. Each topic begins with a description of its applicability, followed by general policy statements and regulations that are more specific. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. Topics include the following:

- Universally Applicable Policies and Regulations
- Archaeological and Historic Resources
- Critical Areas
- Environmental Impacts
- Flood Hazard Reduction
- Public Access
- Vegetation Conservation
- Water Quality and Quantity

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more substantive protection to the shoreline area shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the SMP Guidelines as established in WAC 173-26-186.

## B. Policies and Regulations

### 1. Universally Applicable Policies and Regulations

#### *a) Applicability*

The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

#### *b) Policies*

1. The City should keep records of all project review actions within the shoreline jurisdiction, including shoreline permits and letters of exemption.
2. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.

3. The City should periodically review shoreline conditions to determine whether other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, identify and protect significant cultural resources and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to the following:
  - a. Water quality;
  - b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that support more desirable ecological and recreational conditions),
  - c. Changing visual character as a result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas),
  - d. Shoreline stabilization and modifications, and
  - e. Significant cultural resources resulting from research, inventories, discoveries, or new information.

### *c) Regulations*

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
2. The "policies" listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. The policies, taken together, constitute the Shoreline Element of the City's Comprehensive Plan.
3. If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the SMA, as determined by the Shoreline Administrator, shall apply unless specifically stated.
4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit.

## **2. Archaeological and Historic Resources**

### *a) Applicability*

The following provisions apply to archaeological and historic resources, which may include sites, buildings, structures, districts, or objects, that either are recorded at the Washington State Department of Archaeology and Historic Preservation (DAHP) and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside the shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and

development or uses that may affect such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

*b) Policies*

1. Due to the limited and irreplaceable nature of archaeological and historic resources, preventing the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the DAHP.
2. Ensure that new development is designed to avoid damaging significant archaeological and historic resources and enhance and/or be compatible with such resources.

*c) Regulations*

1. Local developers and property owners shall immediately stop work and notify the City, the DAHP and affected Native American tribes if archaeological resources are uncovered during excavation.
2. A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.
3. Significant archaeological and historic resources shall be preserved permanently for scientific study, education and public observation. When the City determines that a site has significant archaeological, natural scientific or historical value, a Shoreline Substantial Development Permit and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The City may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential, potential for adaptive new uses or management practices, retrieval and preservation of significant artifacts, or another course of action appropriate for the location and circumstances.
4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify Ecology, the State Attorney General's Office and the DAHP of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 or its successor as well as the provisions of this master program.
6. Identified historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and

managed to give maximum protection to the resource and surrounding environment.

7. Clear interpretation of significant archaeological and historic resources shall be provided when and where appropriate.

### 3. Critical Areas

The Critical Areas Code (CAO), Ordinance No. 695 as amended by Ordinance No. 938 and as codified under Title 10, regulates critical areas in the shoreline jurisdiction. Chapter 5 of the RCC is herein incorporated into this SMP except as noted below.

1. If there is a conflict between the provisions of the CAO and other parts of the SMP, the provisions most protective of the shoreline jurisdiction shall apply, as determined by the City.
2. Provisions of the CAO that are not consistent with the SMA, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:
  - a. The provisions of the CAO do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside shoreline jurisdiction, see Chapter 10-5 of the CAO.
  - b. Provisions of the CAO relating to variance procedures and criteria do not apply in shoreline jurisdiction. Specifically, Section 10-5-14B of the CAO does not apply. Variance procedures and criteria have been established in this SMP, Chapter 7 Section C and in Washington Administrative Code WAC 173-27-170.4.
3. In the shoreline jurisdiction, identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, per WAC 173-22-035.
4. Provisions of the CAO that create exemptions not authorized by the Shoreline Management Act do not apply in shoreline jurisdiction. Specifically, Section 10-5-7S of the CAO does not apply.

### 4. Environmental Impacts

#### *a) Applicability*

The SMA is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. Problems of degrading the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are all issues that are addressed.

### *b) Policies*

1. Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdictions, and incentives to encourage ecologically sound design.
2. Preserve the scenic aesthetic quality of shoreline areas to the greatest extent feasible.
3. Adverse impacts on the natural environment should be minimized during all phases of development (e.g. design, construction, operation, and management).

### *c) Regulations*

1. All shoreline uses and developments shall be located, designed, constructed and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
2. All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulk heading, riprap, etc.).
3. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
  - 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. Reducing or eliminating the impact over time by preservation and maintenance operations;
  - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
4. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.
5. The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

6. All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected during both construction and operation. Physical control measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains and landscaped buffers. All types of BMPs require regular maintenance to continue to function as intended. BMPs are identified in the City's adopted stormwater manual.
7. All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.
8. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. When required by the City Engineer, surface drainage systems or substantial earth modifications shall be designed by a civil engineer registered to practice in the State of Washington. The City Engineer may also require additional studies prepared by a qualified soils specialist. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.
9. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation that is likely to achieve no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.

## 5. Flood Hazard Reduction

### *a) Applicability*

The following provisions apply to actions taken to reduce flood damage or hazard to uses, development, and shoreline modifications that could increase flood hazards. Flood hazard reduction measures can consist of nonstructural measures, such as setbacks, land use controls, wetland restoration and structural controls.

### *b) Policies*

1. Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.
2. Flood hazard reduction provisions should be based from applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the SMA and this chapter.
3. Assure that flood hazard reduction measures do not result in a net loss of ecological functions associated with Muck Creek or Muck Lake.

4. Plan for and encourage that Muck Creek return to a more natural hydrological conditions.
5. When evaluating flood control measures, the removal or relocation of structures in flood-prone areas should be considered.

#### *c) Regulations*

1. New development or new uses in shoreline jurisdiction, including subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the floodway.
2. Allow new structural flood hazard reduction measures in the shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts ecological functions and priority species and habitats can be successful mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
3. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation areas, except for actions that increase ecological functions, such as wetland restoration, if such flood hazard reduction projects are authorized if it is determined that no other alternative is feasible. The need for, and analysis of feasible alternatives to structural improvements shall be documented through a geotechnical analysis.

## **6. Public Access**

### *a) Applicability*

Public access includes the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. There are a variety of types of potential public access, including picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, parking and others.

The Roy City Park serves as the main public access site to Muck Creek. The park is located near the northwest corner of the City, and is located on both the north and south banks of Muck Creek, with a pedestrian bridge over the stream connecting the two sides of the park. The City provides the public the ability to rent the park for private activities, including the old Roy City Library building, which was moved to the park in 1996. Parking is provided north of Water Street West.

A portion of the Muck Creek channel and floodway is also located within the Water Street West and Warren Street rights-of-way. The Warren Street Bridge crosses Muck Creek and provides passive visual access to Muck Creek.

Publicly owned land does not border Muck Lake, currently preventing public access to the Lake from within the City. Standards for the dedication and improvement of public access, as noted in the SMP guidelines found in WAC 173-26-221(4)(d)(iii), is discussed in this section.

### *b) Policies*

1. Provide and enhance shoreline access to Muck Creek and Muck Lake through purchase or retention of access easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing.
2. Shoreline areas that hold unique value for public enjoyment should be identified and retained. Purchases should be made or easements should be acquired for public use. Prioritize sites in terms of short and long-term acquisition and development.
3. The level of public access should be commensurate with the degree of uniqueness or fragility of the shoreline.
4. Street crossings at Muck Creek and public street ends terminating at the creek should be considered for development of public access facilities.
5. Ensure the development of upland areas such as parking facilities and play areas are located and designed in ways that result in no net loss of ecological function.
6. Access should be provided for a range of users including pedestrians, bicyclists, and people with disabilities to the greatest extent feasible.
7. Public access provisions should be required for all shoreline development and uses, except for a single-family residence or residential projects containing less than four (4) dwelling units.
8. Regulate the design, construction, and operation of permitted uses in the shoreline jurisdiction to minimize, insofar as practical, interference with the public's use of the water.
9. Improve access to all shoreline areas through expanded non-motorized connections.
10. Integrate shoreline public access trails with other existing and planned regional trails where feasible to provide non-motorized access and community connections.
11. Ensure existing and proposed public access and recreational uses do not adversely affect the integrity and character of the shoreline, threaten fragile shoreline ecosystem, or impair or detract from the public's visual or physical access to the water.
12. Preservation and enhancement of the public's visual access to all shoreline areas should be encouraged through the establishment of setbacks and height limits

that ensure view corridors. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.

13. Public access to shoreline areas does not include the right to enter upon or cross private property, except for dedicated easements.
14. Physical access for passive recreation (such as interpretive trails) and habitat enhancement should be important objectives for the management of shoreline public access sites.
15. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and they should be designed to be accessible by handicapped and physically impaired persons; auxiliary facilities should be located outside of the shoreline management area where feasible or near the outer edge of the shoreline management area if possible.
16. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
17. Regulations should ensure that the development of active recreational facilities results in no net loss of ecological function. Regulations should address upland concerns, such as the location and design of parking and auxiliary facilities and active play areas, as well as the development of in-water and nearshore structures, such as non-motorized boat launches.
18. Public access facilities should be constructed of environmentally friendly materials, use low impact development techniques and support healthy natural processes, when feasible.
19. Regulations should provide detailed guidance for the construction of trails in particularly environmentally sensitive shoreline segments along Muck Creek and Muck Lake.
20. Public access planning should include a plan for an integrated shoreline public access system that identifies specific public needs and opportunities to provide public access. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and parks/recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.
21. At a minimum, public access planning should result in public access requirements for shoreline permits, recommended projects, and/or actions to be taken to develop access to shorelines on public property. The Shoreline Administrator should identify a variety of shoreline circulation and access opportunities for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

*c) Regulations*

1. Public access shall be required for all shoreline development and uses, except for a single-family residence or residential projects containing less than four (4) dwelling units.
2. Public access requirements shall be applied as follows:
  - a. A shoreline development or use that does not provide public access may be authorized provided the applicant demonstrates and the City determines that one or more of the following provisions apply.
    - i. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
    - ii. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
    - iii. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development.
    - iv. Unacceptable environmental harm will result from the public access which cannot be mitigated; or
    - v. Significant undue and unavoidable conflict between the proposed access and adjacent uses will occur and it cannot be mitigated.
  - b. Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
    - i. Regulating access by such means as limiting hours of use to daylight hours;
    - ii. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping;
    - iii. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system;
    - iv. Where the above conditions cannot be met, a payment in lieu of providing public access shall be required in accordance with RCW 82.02.020.
3. Developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, natural vegetation shall not be excessively removed either by clearing or by topping.

4. Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.
5. Public access sites shall be made barrier free for the physically disabled where feasible.
6. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
7. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat, if applicable, or short plat as a condition running in perpetuity with the land. Recording with the Pierce County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval).
8. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.
9. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
10. Physical public access shall be designed to prevent significant impacts to sensitive natural systems.
11. The City shall require the use of environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., when developing public access to the shoreline.
12. Where public access is to be provided by a trail, the following requirements shall apply:
  - a. The trail shall be no greater than 10 feet in total improved width, which may include 1-foot gravel shoulders. Not including landscaping, no more than 8 feet of improved surface is preferable in most cases.
  - b. Pervious pavement should be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic or functionality concerns.
  - c. Where feasible, the trail shall be placed at least 50 feet from the OHWM.
  - d. Landscaping should be native and drought tolerant or site appropriate.
  - e. Other specific conditions described in a trail or parks plan.
  - f. In the event of conflict with the trail requirements in the City's small lot standards, the requirements found in the SMP shall prevail.

13. Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline. Porous pavements shall be used unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that such materials would restrict accessibility, pose a safety hazard or are not sufficiently durable.

## 7. Restoration

### *a) Applicability*

Restoration refers to the reestablishment or upgrading or impaired ecological shoreline processes or functions. The following goals and policies are intended to guide actions that are designed to achieve improvements in shoreline ecological functions over time in shoreline areas where such functions have been degraded. The overarching purpose is to achieve overall improvements over time when compared to the condition upon adoption of the master program, as detailed in the Shoreline Analysis Report. Restoration is distinct from mitigation measures necessary to achieve no net loss of shoreline functions and the City's commitment to plan for restoration will not be implemented through regulatory means.

### *b) Policies*

1. Reclaim and restore areas, which are degraded biologically and aesthetically to the greatest extent feasible while maintaining appropriate use of the shoreline.
2. Increase quality, width and diversity of native vegetation in protected corridors adjacent to riparian and lake habitats to provide safe migration pathways for fish and wildlife, food, nest sites, shade, perches, and organic debris. Strive to control non-indigenous plants or weeds that are proven harmful to native vegetation or habitats.
3. Continue to work collaboratively with other jurisdictions and stakeholders to implement the WRIA 11 Plan.
4. Seek funding where possible for various restoration actions and programs from local sources and by working with other WRIA 11 jurisdictions and stakeholders to seek federal, state, grant and other funding opportunities.
5. Develop a public education plan to inform private property owners in the shoreline zone and in the remainder of the City about the effects of land management practices and other unregulated activities (such as vegetation removal, pesticide/herbicide use, car washing) on fish and wildlife habitats.
6. Where feasible, protect, enhance, and encourage the restoration of lake and stream areas and wetlands throughout the contributing basin where functions have been lost or compromised.

### *c) Regulations*

1. Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the City's Shoreline Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology, and consistent with criteria and procedures in WAC 173-27-215. (Sub. Ord. 966, 8-13-2018)

## **8. Vegetation Conservation**

### *a) Applicability*

Vegetation within and adjacent to water bodies provides a valuable function for the health of aquatic ecosystems. Vegetation conservation includes activities to protect and restore vegetation along or near freshwater shorelines that contribute to the ecological functions of shoreline areas.

### *b) Policies*

1. Where new developments and/or uses or redevelopments are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible.
2. Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.
3. All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.
4. Provide incentives for the retention and planting of native vegetation, discourage extensive lawns due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.
5. The City should explore opportunities for the planting and enhancement of native vegetation at Muck Creek and Muck Lake.
6. In order to increase habitat and address other ecological functions within the shoreline environment such as temperature regulation and bank stabilization, encourage homeowners and property managers to leave fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.
7. The City should provide information to the public about environmentally appropriate vegetation management, landscaping for shoreline properties and

alternatives to the use of pesticides and herbicides, which affect water quality and aquatic habitat.

8. Property owners should use the following Best Management Practices (BMPs) when maintaining residential landscapes:
  - a. Avoid use of herbicides, fertilizers, insecticides, and fungicides along drainage channels, and shores of Muck Creek and Muck Lake.
  - b. Limit the amount of lawn and garden watering so that there is no surface runoff.
  - c. Dispose of grass clippings, leaves, or twigs properly; do not sweep these materials into the street, into a body of water, or near a storm drain.
9. Aquatic weed management should involve usage of native plant materials wherever possible in soil bioengineering applications and habitat restoration activities. Where active removal or destruction of aquatic vegetation is necessary, it should be done only to the extent necessary to allow water-dependent activities to continue. Removal or modification of aquatic vegetation should be conducted in a manner that minimizes adverse impacts to native plant communities, and should include appropriate handling or disposal of weed materials and attached sediments.

### *c) Regulations*

1. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below:
  - a. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and the City's engineering and stormwater design standards, and native vegetation shall be promptly reestablished in the disturbed area.
  - b. Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes and other activities allowed pursuant to these regulations, if said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats.
2. All clearing and grading activities must adhere to the requirements of the City's code pertaining to land, clearing and grading and all additional requirements provided in the SMP. Additional clearing and grading performance standards may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.
3. Prior to issuance of any construction, grading, or building permits, the permittee shall post with the City a cash operating bond, and a cash surety reclamation

bond in amounts approved by the City. This amount shall equal one hundred fifty percent (150%) of the estimated cost of the project as reviewed and approved by the City Engineer, or no less than two thousand dollars. This regulation would also apply to any site mitigation requirements.

4. Prior to final issuance of a building permit, land use permit or occupancy, a maintenance bond or other acceptable financial guarantee equal to thirty percent (30%) of the replacement cost of the landscaping shall be submitted. The bond or other suitable financial guarantee shall be maintained for a three (3) year period, at which point the Shoreline Administrator and City Engineer, or designee, will determine if the bond shall be released or extended to maintain landscaped areas. This regulation would also apply to any site mitigation requirements.
5. In all shoreline areas, land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.
6. Any normal and routine maintenance of existing trees shall not be subject to these clearing and grading regulations, if said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees.
7. Any significant placement of materials from off-site (other than surcharge or pre-load), or the substantial creation or raising of dry upland shall be considered fill and shall comply with the requirements of the City.
8. Within all other shoreline areas, tree removal shall be limited to the minimum necessary to accommodate proposed structures and uses or to mitigate a hazard to life or property. Significant trees shall be replaced according to RCC 11-24-10 or the applicant may submit a tree replacement plan prepared by a qualified professional that demonstrates how no net loss will be achieved.
9. The City shall require a report prepared by a qualified professional as part of any substantial development permit that includes tree removal and land clearing. The report shall identify appropriate mitigation, performance assurances, maintenance, and monitoring requirements necessary to assure no net loss of ecological function necessary to sustain shoreline processes.
10. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to that, which most recently occurred on-site, may be used.
11. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years time, the vegetation is at least ninety (90) percent reestablished.

12. Stabilization of exposed erosion-prone surfaces within the shoreline environment shall utilize soil-bioengineering techniques wherever feasible.
13. Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements.
14. The application of herbicides or pesticides in Muck Creek and Muck Lake, wetlands, or ditches requires a permit from Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

## 9. Water Quality and Quantity

### *a) Applicability*

Water quality is affected in numerous ways by human occupation and development of shoreline areas. Typically, the increase in impermeable surfaces as a result of development increases stormwater runoff volumes, causing higher stormwater discharges at higher velocities that cause scouring and erosion of stream banks. The degradation of water quality adversely affects wildlife habitat and public health.

### *b) Policies*

1. All shoreline uses and activities should be located, designed, constructed and maintained to mitigate the adverse impacts to water quality.
2. Water quality education efforts should be used to reduce the potential sources of pollutants to Muck Creek and Muck Lake.
3. Stormwater impacts should be addressed through the application of the most recent edition of the adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. New impervious surfaces should be limited within the shoreline management area by setting maximum impervious surface standards for new development and redevelopment and encouraging the use of pervious pavements and other low impact development technologies.
5. The City should work with the Pierce County Health Department to ensure existing septic systems are working properly to prevent groundwater and surface water degradation through excessive inputs of nutrients (nitrogen and phosphorus) and hazardous microbes.
6. The City should continue to provide general information to the public about the use of land and human activities, which affect water quality. This could be accomplished by encouraging educational curricula that provide students with

first hand exposure to the issues and solutions, and through community activities, such as Adopt-A-Stream programs.

7. The City should encourage homeowners and property managers to use non-chemical weed and pest control solutions and natural fertilizers.

### *c) Regulations*

1. All shoreline development, both during and after construction, shall minimize impacts related to surface runoff through control, treatment and release of surface water runoff such that there is no net loss of receiving water quality in the shoreline environment. Control measures include but are not limited to runoff-intercepting ditches, catch basins, settling wet ponds, sedimentation ponds, oil/water separators, filtration systems, grassy swales, planted buffers, and fugitive dust controls.
2. Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater storage basins.
3. All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.

# Chapter 4: Shoreline Use Provisions

## A. Introduction

As required by the SMA, this Master Program sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development, Forest Practices, Industry, In-Stream Structures, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Utilities (Primary and Accessory). The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the SMA and this Program.

## B. Basic Shoreline Use and Development Standards

### 1. Table 1 – Permitted, Conditional and Prohibited Uses

<b>KEY</b>
P = Permitted Use
C = Conditional Use
X = Prohibited
N/A = Use Not Applicable in the City

Shoreline Uses	Shoreline Residential	Urban Conservancy	Aquatic
<b>Agriculture</b>	C	P	X
<b>Aquaculture</b>	N/A	N/A	N/A
<b>Boating Facilities</b>	N/A	N/A	N/A
<b>Commercial Development (1)</b>	X/P	X	X
<b>Forest Practices</b>	X	X	X
<b>Industry</b>	N/A	N/A	N/A
<b>In-Stream Structures</b>			
As Part of a Fish Habitat Enhancement Project	N/A	N/A	P
<b>Mining</b>	X	X	X
<b>Parking</b>			

<b>Shoreline Uses</b>	<b>Shoreline Residential</b>	<b>Urban Conservancy</b>	<b>Aquatic</b>
Parking (As a Primary Use)	X	X	X
Parking (As a Secondary Use)	P	X	X
<b>Recreational Development</b>			
Water Oriented	P	C	C
Non-Water Oriented (As a Primary Use)	P	X	X
Non-Water Oriented (As an Accessory Use)	P	X	X
Passive Park	P	P	X
Active Park	P	X	X
<b>Residential Development</b>	P	X	X
<b>Transportation Facilities</b>			
New Roads related to Permitted Shoreline Activities	P	C	X
Bridges for Motorized and Nonmotorized Uses	C	X	X (2)
Expansions of Existing Circulation Systems outside of New Roads related to Permitted Shoreline Activities	C	X	X
<b>Utilities (Primary)</b>			
Solid Waste Disposal or Transfer Sites	X	X	X
Other	C	X	X
<b>Utilities (Accessory)</b>			
Local Public Water, Electric, Natural Gas Distribution, Public Sewer Collection, Cable and Telephone Service and Appurtenances	P	C	X

Notes:

- (1) Commercial Development is allowed in the Shoreline Residential environmental designation only for those properties zoned "Commercial" in RCC Tile 11. Otherwise, those uses are prohibited.
- (2) Exceptions may apply.

## 2. Table 2 – Basic Development Standards

Shoreline Standard	Shoreline Residential	Urban Conservancy	Aquatic <sup>3</sup>
Maximum Height (1)	40 Feet	40 Feet	N/A
Shoreline Setback (from OHWM) (2)	200 feet (standard) based on CAO requirements. May be reduced by measures indicated in CAO	200 feet (standard) based on CAO requirements. May be reduced by measures indicated in CAO	N/A
Building Setback from Buffer	10 feet	10 feet	N/A
Maximum Impervious Surface Coverage	(3)	(3)	N/A
Minimum Lot Width (4)	None	None (5)	N/A

### Notes:

(1) Development shall also be subject to the height limits established by the underlying zoning. In no case shall the height exceed forty feet (40') above the average vertical distance between the finished grade on each exterior wall and a horizontal plane level with the highest point of the coping of a flat roof, the deck of a mansard roof, or the highest ridgeline of a pitched roof. Height limits apply to all permanent and temporary structures and non-water related accessory structures. The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

(2) Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. Please see zoning regulations for interior lot setbacks and other requirements that apply to specific zones. In the event of a conflict between a provision in this SMP and a provision in another part of the RCC, the requirement that provides the most protection to the shoreline management area shall be applied.

Developments associated with an ecological restoration, water-dependent uses, and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking be allowed within the minimum setback.

The City's Shoreline Administrator may reduce the shoreline setback from OHWM in exchange for restoration of degraded areas in accordance with an approved plan, or for

buffer averaging in accordance with RCC subsection 10-5-13G. The City's Shoreline Administrator may also reduce the standard buffer width wherever the proposed adjoining upland land use is of low intensity and low impact, such as passive use parks.

(3) Development shall also be subject to the maximum impervious surface coverage limits established by the underlying zoning and CAO. In no case shall it be more than 85%.

(4) Development shall also be subject to the minimum lot width limits established by the underlying zoning.

(5) Mixed use projects shall comply, at a minimum, with the standards and guidelines applicable to the types of uses proposed in accordance with RCC Chapters 11-13, 11-14 and 11-27 for residential uses, RCC Chapter 11-15 for commercial uses, and RCC Chapter 11-16 for light industrial uses. Development standards and guidelines for other non-residential uses will be determined through the planned development review process. Streetscape elements shall comply with the design standards and guidelines adopted pursuant to RCC Chapter 11-28. Non-residential development located within a combined MU/WDO district shall also comply with the WDO standards and guidelines in RCC Chapter 11-19.

## C. Shoreline Use Policies and Regulations

### 1. General Use Policies

#### *a) Applicability*

The provisions in this section apply to all uses and development types permitted within the shoreline jurisdiction.

#### *b) Policies*

1. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, apply the following preferences and priorities in the order listed below:
  - a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
  - b. Reserve shoreline areas for water-dependent and associated water related uses.
  - c. Reserve shoreline areas for other water-related and water-enjoyment uses compatible with ecological protection and restoration objectives.
  - d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

- e. Limit non-water-oriented uses to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA, including opportunities for ecological enhancements and public access improvements.
2. Proposed economic use of the shoreline should be consistent with the City's Comprehensive Plan. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this master program as they affect the shoreline.
3. New residential development should be designed to protect existing shoreline water views, promote public safety, and avoid adverse impacts to shoreline habitats.
4. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.
5. Encourage the use of Low Impact Development (LID) and "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
6. Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
7. Encourage shoreline uses that enhance their specific areas or employ innovative features for purposes consistent with this program.
8. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function because of past activities or catastrophic events.

### *c) Regulations*

1. Shoreline uses are allowed only if the underlying zoning allows the use.
2. Aquaculture, Boating Facilities, Forest Practice, Industry and Mining uses and activities are prohibited in the shoreline jurisdiction.

## **2. Agriculture**

### *a) Applicability*

Agriculture includes, but is not limited to, the commercial production of horticultural, vitacultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140; or livestock, that has long-term commercial significance as well as the other definitions of agricultural use found in WAC 173-26-020(3). In all cases, the use of agriculture related terms shall be

consistent with the specific meanings provided in WAC 173-26-020. This master program applies only to new agricultural activities, and shall not require modification of or limit existing and ongoing agricultural activities in shoreline jurisdiction, consistent with WAC 17-26-241.

### *b) Policies*

1. Agriculture should be permitted as an accessory use only in the Shoreline Residential and Urban Conservancy Environments.
2. The creation of new agricultural lands by diking, draining, or filling marshes, and associated marshes, bogs, and swamps, or by removing native vegetation should be prohibited.
3. All new agricultural activities should be set back from the shoreline according to the setbacks established for the shoreline environment in which the activity is occurring.
4. Appropriate management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application. The use of chemical pesticides and fertilizers should be discouraged.
5. All new agricultural development should be conditioned to be located and designed to assure no net loss of ecological functions and not to have a significant adverse impact on other shoreline resources and values.

### *c) Regulations*

1. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and this SMP to ensure no net loss of ecological function.
2. All agricultural activities shall occur outside of the established shoreline setback area.
3. The removal of native vegetation to accommodate agricultural activities shall be prohibited.
4. A buffer of natural or planted permanent native vegetation as determined by the City's CAO, not less than 20 feet in width, measured perpendicular to the shoreline, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the buffer based on the requirements of the CAO when the applicant applies for a permit or letter of exemption.
5. Water withdrawals from SMP water bodies for irrigation purposes shall be subject to Ecology rules and regulations.

6. Manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the shoreline jurisdiction.
7. Any water discharge from agricultural activities into SMP water bodies shall be prohibited.

### 3. Aquaculture

#### *a) Applicability*

Aquaculture is the farming or culturing of food fish or other aquatic plants and animals in lakes, streams and other natural or artificial water bodies. These activities are not applicable to the City. There are no aquaculture activities existing or anticipated within the shoreline jurisdiction.

#### *b) Policies*

1. Due to high water use and conflict with other beneficial uses of water, prohibit aquaculture uses and facilities in all shoreline environments.

#### *c) Regulations*

1. Aquaculture uses are prohibited in all shoreline environment designations.

### 4. Boating Facilities

#### *a) Applicability*

These activities are not applicable to the City. There are no known boating facility activities existing or anticipated within the shoreline jurisdiction.

#### *b) Policies*

1. Prohibit boating facilities within all shoreline environment designations.

#### *c) Regulations*

1. Boating facilities are prohibited in all shoreline environment designations.

### 5. Commercial Development

#### *a) Applicability*

The provisions in this section apply to all commercial uses and development types permitted within the Shoreline Residential shoreline jurisdiction.

#### *b) Policies*

1. Preference should first be given to water-dependent commercial uses over non-water-dependent commercial uses and second, give preference to water-related and water enjoyment commercial uses over non-water-oriented commercial uses

2. Commercial uses on sites that are physically separated from the shoreline by another property or public right of way should be allowed on lands zoned for that purpose under RCC Title 11, where there are limited developed areas of non-water-oriented commercial uses without direct access to the shoreline.
3. Commercial uses may be authorized as water related or water enjoyment if they incorporate required and appropriate design and operational elements.

#### *c) Regulations*

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water oriented commercial uses on the shoreline are prohibited unless they meet the following criteria:
  - a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
  - b. Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
  - c. The site is physically separated from the shoreline by another property or public right of way.

### **6. Forest Practices**

#### *a) Applicability*

Forest practices are incompatible with goals for shoreline areas within the City boundaries.

#### *b) Policies*

1. Prohibit forest practice activities within all shoreline environment designations.

#### *c) Regulations*

1. Forest practices are prohibited in all shoreline environment designations.
2. For the purpose of this SMP, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including vegetation conservation, shall be limited to the minimum necessary.

## 7. Industry

### *a) Applicability*

Industry uses are incompatible with goals for shoreline areas within the City boundaries.

### *b) Policies*

1. Prohibit industry uses within all shoreline environment designations.

### *c) Regulations*

1. Industry uses are prohibited in all shoreline environment designations.

## 8. In-Stream Structures

### *a) Applicability*

In-Stream Structures allowed in the City are limited to fish habitat enhancements, which are only found within the Aquatic shoreline environment designation.

### *b) Policies*

1. Fish habitat enhancements are In-Stream Structures that protect and preserve ecosystem-wide processes, ecological functions, and cultural resources.

### *c) Regulations*

1. In-Stream Structures such as fish habitat enhancements shall be designed and permitted to meet all applicable City, state, and federal codes and regulations.

## 9. Mining

### *a) Applicability*

Mining uses are incompatible with goals for shoreline areas within the City boundaries.

### *b) Policies*

1. Prohibit mining uses within all shoreline environment designations.

### *c) Regulations*

1. Mining uses are prohibited in all shoreline environment designations.

## 10. Parking

### *a) Applicability*

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline

use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

### *b) Policies*

1. Parking in shoreline areas should be minimized.
2. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and should result in no loss of ecological functions.
3. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

### *c) Regulations*

1. Parking as a primary use is prohibited in Shoreline jurisdiction.
2. Parking in shoreline areas must directly serve a permitted shoreline use.
3. Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.
4. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
5. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide an effective "full-screen" within three (3) years of project completion when viewed from adjacent areas within Shoreline jurisdiction.
6. New and reconstructed parking areas within the Shoreline Residential Shoreline Environment shall utilize Low Impact Development (LID) techniques if technically appropriate and as described in the most recent edition of the Low Impact Development Manual: Technical Guidance for Puget Sound.

## **11. Recreational Development**

### *a) Applicability*

Recreational uses include passive activities, such as walking, viewing and fishing. Recreational development also includes facilities for active uses, such as swimming, boating, and other outdoor recreation uses. This section applies to both public and private noncommercial shoreline recreational facilities (excluding private residences) in the City.

### *b) Policies*

1. Water-oriented recreational uses in the shoreline jurisdiction should be preferred. Non-water-oriented recreational facilities may be allowed as a primary use where they do not displace water oriented uses.
2. The coordination of local, state and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's Comprehensive Plan.
3. Recreational developments should be designed to preserve, enhance or create scenic views and vistas.
4. The use of publicly owned lands for public access and development of recreational opportunities should be encouraged.
5. Priority for land acquisition should be given to open space that provides wildlife habitat and offers opportunities for education and interpretation within shoreline jurisdiction.
6. Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
7. Links between existing and future shoreline parks, recreation areas and public access points should be created with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.
8. Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
9. Public access should not contribute to a net loss of shoreline ecological functions.

### *c) Regulations*

1. All structures associated with a recreational use, except water dependent structures, such as boardwalks, and appurtenances that provide access to the water for that use, shall maintain the standard setback as outlined in the City's CAO. Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.
2. Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.

3. Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery such as picnicking, hiking and bicycling shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in the shoreline corridor.
4. All recreational developments shall make adequate provisions for the following:
  - a. Public access to the shoreline;
  - b. Non-motorized and pedestrian access;
  - c. The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;
  - d. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
  - e. Signs indicating the public's right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
  - f. Buffer such development from adjacent private property or natural area.
7. In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance or restore desirable shoreline features.
8. Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
9. Recreation developments such as playfields that require periodic use of fertilizers, pesticides or other chemicals, or that support high-intensity activities as a primary use, such as sporting events, shall be located outside of shoreline jurisdiction.
10. A new or expanded shoreline recreational development or use that does not provide public access may be authorized provided the applicant has demonstrated and the City has determined that one or more of the following provisions apply:
  - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
  - b. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
  - c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
  - d. Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or

- e. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and they cannot be mitigated.
- f. Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
  - i. Regulating access by such means as limiting hours of use to daylight hours;
  - ii. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping;
  - iii. Providing access that is separated physically from the proposal, such as an offsite viewpoint, or a trail system.

11. Whenever the applicant demonstrates that public access cannot be provided per regulation 11 above, the City shall require the applicant to make an in-lieu of payment in accordance with RCW 82.02.020 as a condition of granting a permit.

## 12. Residential Development

### *a) Applicability*

Residential development means one or more buildings, structures, lots, parcels, or portions thereof, which are designed for and used or intended to be used to provide a place of abode for human beings. This includes the creation of new residential lots through land division and single family residences and other detached dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, fences and saunas. Single-Family and Multi-Family development is limited to those underlying zones that currently allow it and subject to the requirements therein.

### *b) Policies*

1. Residential development should be permitted only where there are adequate provisions for utilities, circulation and access.
2. Recognizing the nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.
3. Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.
4. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices and where possible, utilizing low impact development technologies.

5. The City should encourage the use of alternative paving products for walkways, driveways, and patios, such as pervious pavers, as a mechanism for reducing impervious surfaces and surface water runoff.
6. Development should achieve at a minimum no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

### *c) Regulations*

1. Residential development is permitted in the Shoreline Residential Environment subject to the standards of the underlying zoning regulations and the general regulations in Chapter 3 of this SMP.
2. Property owners with failing septic systems that pose a risk to health or the environment shall be required to fix this problem.
3. Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
4. All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks.
5. Residential structures that are modified intentionally, replaced, repaired or enlarged are subject to the requirements in Chapter 6 (Administration – Nonconforming Use and Development Standards).
6. Residential structures that are modified, replaced or repaired following a catastrophic loss are subject to the requirements in Chapter 6 (Administration – Nonconforming Use and Development Standards).
7. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
8. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be designed in accordance with the City of Roy's adopted Surface Water Design Manual and, if feasible, use LID BMPs found in the Low Impact Development Technical Guidance Manual for Puget Sound.
9. Residential development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.

## 13. Signs

### *a) Applicability*

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following

provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

### *b) Policies*

1. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelines.
3. Billboards are not an appropriate use of the shoreline area within shoreline jurisdiction.

### *c) Regulations*

1. Signs shall comply with the City's sign regulations in RCC 11-26.
2. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit application submittal and approval.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.

## **14. Transportation Facilities**

### *a) Applicability*

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges (including pedestrian bridges), bikeways, trails, heliports, and other related facilities. In the City, these uses account for a minimal percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

### *b) Policies*

1. Normal operation and maintenance of all transportation facilities in shoreline jurisdiction should be exempt.
2. New transportation facility construction in the shoreline jurisdiction should be minimized, and allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
3. Expansion of existing transportation facilities should be allowed by conditional use if such facilities are found to be in the public interest.
4. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged, where feasible.

5. When new transportation development occurs in shoreline areas, acquire and develop physical and visual public access to the shoreline where topography, view and natural features warrant.
6. New stream crossings associated with transportation should be minimized. Where necessary culverts or bridges should be designed to provide for stream functions such as fish passage and accommodate the flow of water, sediment and woody debris during storm events.

### *c) Regulations*

1. New transportation facility in shoreline jurisdiction shall be minimized and allowed only when related to and necessary for the support of permitted shoreline activities.
2. All proposed transportation facilities must demonstrate how they have been planned, located and designed where routes will have the least possible adverse effect on unique or fragile shoreline features.
3. Transportation facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Any road expansion affecting streams and waterways shall be designed to allow fish passage and minimum impact to habitat.
5. New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacted (e.g. perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to WDFW Fish Passage Guidelines and accommodate the flow of water, sediment and woody debris during the 100-year return storm event. Bridge abutments shall be located outside of floodplains and channel migration zones if feasible.
6. Expansion of existing transportation facilities within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
  - a. No alternative route is feasible;
  - b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
  - c. The roadway is found to be in the public interest.
7. Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
8. Developers of roads must be able to demonstrate that efforts have been made to coordinate with existing land use plans including the SMP and the City's Comprehensive Plan.

9. All debris and other waste materials from transportation facility construction shall be disposed of in such a way as to prevent their entry into any water body.
10. Road designs must provide safe pedestrian and nonmotorized vehicular crossings where public access to shorelines is intended.
11. Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Pervious materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.
12. The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

## 15. Utilities (Primary)

### *a) Applicability*

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

### *b) Policies*

1. New primary utilities should be located outside of the SMA jurisdiction unless no other feasible option exists. Where allowed they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights- of- way and corridors should be encouraged.
2. Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste facilities" are not to be construed as storage of recyclable materials.
3. Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
4. Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

### *c) Regulations*

1. Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option exists.

2. Primary utilities shall be located landward of the OHWM unless such location is not feasible or would result in potentially greater environmental impacts.
3. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Through coordination with local government agencies, utility development shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.
5. Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
6. Solid waste disposal sites and facilities are prohibited in the shoreline environment.
7. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.
8. Primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense "full screen."
9. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion; any disturbed areas shall be restored to their pre-project condition.
10. The City shall hold public meetings prior to the issuance of a Substantial Development Permit for a major primary utility project in accordance with the administrative procedures outlined in this Master Program to allow for the greatest amount of public input to help guide utility-related decisions.

## 16. Utilities (Accessory)

### *a) Applicability*

Utilities have been split into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water and sewer service lines, stormwater collection and conveyance, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern

all types of development and have the potential of affecting the ecological condition and visual quality of the shoreline and its waters.

### *b) Policies*

1. Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.
2. Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground, where feasible.
3. Utility facilities should be designed and located in a manner that preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

### *c) Regulations*

1. Through coordination with local government agencies, utility developments shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.
2. In shoreline areas, accessory utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.
3. Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the City, and maintenance care. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
5. The location and construction of outfalls shall comply with all appropriate federal, state, county and City regulations.
6. The City shall maintain, enhance and restore public natural drainage systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental degradation for a no net loss of shoreline ecological functions.
7. New utility lines including electricity, communications, and fuel lines shall be located underground. Existing above ground lines shall be moved underground

when properties are redeveloped or in conjunction with major system upgrades or replacements.

8. Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
9. Proposals for new utility corridors shall fully substantiate the infeasibility of existing routes.

# Chapter 5: Shoreline Modification Provisions

## A. Introduction

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the SMA. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

This chapter has been divided into four sections: Shoreline Stabilization, Clearing and Grading, Dredging and Fill, and Overwater Structures.

## B. Table of Shoreline Modification Activities

### 1. Interpretation of Shoreline Modification Table

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. See standards following the table for a full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

The table should be interpreted as follows:

1. If the letter "X" appears in the box at the intersection of the column and the row, the modification is not allowed in that shoreline environment.
2. If the letter "P" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment only if the underlying zoning allows the modification.
3. If the letter "C" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in Chapter 6, and only if the underlying zoning allows the modification.
4. If "N/A" appears in the box at the intersection of the column and the row, the modification is not applicable in shoreline environments.

**Table 3 – Shoreline Modifications**

Shoreline Modification Activity	Shoreline Residential	Urban Conservancy	Aquatic
<b>Shoreline Stabilization</b>			
Restoration and Enhancement	P	C	C
Soil Bio-engineering	P	C	X
Structural Stabilization	P	X	X
Bulkheads	C	X	X
Groins	X	X	X
Riprap	C	X	X
Weirs	X	X	X
<b>Dredging and Disposal</b>			
Clearing and Grading	P	C	X
Dredging	C	X	C
<b>Fill</b>			
Fill upland of OHWM	P	C	N/A
Fill waterward of OHWM	N/A	N/A	C
<b>Overwater Structures (1)</b>	N/A	N/A	N/A

Notes:

(1) Does not include Transportation Facilities, which are addressed in Chapter 5.

## C. General Modifications

### 1. Applicability

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties. Additional requirements as contained in other Chapters of this SMP apply. Where a general standard, environment standard or use standard conflicts with the provisions contained in this chapter, the more restrictive shall apply.

### 2. General Modification Policies and Regulations

#### *a)Policies*

1. The adverse effects of shoreline modifications should be reduced, as much as possible, and shoreline modifications should be limited in number and extent.

2. The City should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.

#### *b) Regulations*

1. All shoreline modifications must be in support of a permitted shoreline use or provide for human health and safety.
2. All shoreline development shall be located and designed to prevent or minimize the need for shoreline modification activities.
3. In reviewing shoreline modification permits, the City shall require steps to reduce significant ecological impacts according to the mitigation sequence described under 'mitigation' in the Definition section of this SMP.
4. The City shall base all shoreline modification decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.

## **D. Shoreline Stabilization**

Shoreline stabilization includes actions taken to address erosion impacts to property caused by natural processes. These actions include all structural and nonstructural methods. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineered vegetation measures or shoreline enhancement. 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.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the positive aspects of each of these processes in order to retain the benefits of these natural occurrences. Erosion does not occur without accretion (deposition and accumulation) of material eroded. Likewise, accretion cannot occur unless material has been eroded.

General policies and regulations addressing shoreline stabilization methods applicable to the City are presented in the following sections. Additional discussion of the individual stabilization methods, and policies and regulations specific to them, are provided following the general policies and regulations section.

## 1. Applicability and Definitions

### *a) Restoration or Enhancement*

Enhancement is the alteration of exposed and submerged shorelines for the purpose of stabilization, recreational enhancement, and or/aquatic habitat creation or restoration using native or similar material. The materials used are dependent on the intended use. For recreational purposes, various grades of clean sand or pea gravel are used often to create a shore above the OHWM. Restoration or re-creation of a shore feature may require a rock and gravel matrix and/or creation of other materials appropriate for the intended use.

### *b) Soil Bioengineering*

Soil bioengineering is the term given to the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material; fabric or other soil stabilization techniques; and limited rock toe protection, where appropriate. Soil bioengineering projects often include fisheries habitat enhancement measures such as anchored logs or root wads, in project design. Soil bioengineering techniques may be applied to shoreline areas and the upland areas away from the immediate shoreline.

The use of soil bioengineering as a shoreline stabilization technique is a viable and proven alternative to riprap, concrete and other structural solutions. It provides habitat while maintaining and preserving the natural character of the shoreline. Soil bioengineering is the preferred "best practices" choice when considering shoreline stabilization.

### *c) Bulkheads*

Bulkheads are shoreline structures, either sloped or vertical, usually constructed parallel to the shore. The primary purpose they serve is to contain and prevent the loss of soil caused by erosion.

Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Uses and activities related to bulkheads, which are identified as separate use activities in this program, such as Fill and Residential Development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this section.

### *d) Groins*

Groins are barrier-type structures of rock, wooden piling or other materials constructed across the beach itself and extending into the water with the intent to

obstruct sand and sediment carried by the littoral drift action along shorelines. Groins are not applicable in the City's shoreline jurisdiction.

#### *e) Riprap*

Riprap is a layer, facing, or protective mound of stones placed along streams to prevent erosion, scour, or sloughing of a structure or embankment. Riprap is also the term for the stone so used. Currently riprap can be found along Muck Creek near the Warren Street bridge.

#### *f) Weirs*

A weir is a small overflow-type dam commonly used to raise the level of a river or stream. Because a weir will typically increase the oxygen content of the water as it passes over the crest, a weir can have a detrimental effect on the local ecology of a river system. A weir will also artificially reduce the upstream water velocity, which can lead to an increase in siltation. A weir may pose a barrier to migrating fish. Weirs are not applicable in the City's shoreline jurisdiction.

## **2. General Policies and Regulations**

### *a) Policies*

1. Proposals for shoreline stabilization activities should address the impact of these activities on the shoreline environment. This planning should consider off-site erosion or damage that might occur because of shoreline stabilization structures or activities.
2. Non-structural stabilization measures are preferred over "soft" structural measures. Soft structural shoreline stabilization measures are strongly preferred over hard structural shoreline stabilization. Proposals for hard and soft structural solutions, including bulkheads, should be allowed only when it is demonstrated that nonstructural methods are not feasible. Hard structural shoreline stabilization measures should be allowed only when it is demonstrated that soft structural measures are not feasible.
3. Structural shoreline stabilization should be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established structures, primary uses and public improvements, and that there are no other feasible options to the proposed shoreline stabilization that have less impact on the shoreline environment.
4. Shoreline stabilization structures should be located, designed and constructed to minimize adverse impact on the property of others.
5. New development requiring bulkheads or similar protection should not be allowed. All new shoreline development should be located and designed to prevent or minimize the need for shoreline modification activities.

6. Mitigation for shoreline stabilization should be provided to achieve no net loss of ecological functions necessary to sustain shoreline natural resources.

### *b) Regulations*

#### (I) General Shoreline Stabilization – Basic Requirements

1. Structural (soft and hard) solutions to reduce shoreline damage from erosion shall be allowed only after it is demonstrated through a geotechnical report that non-structural solutions would not provide sufficient protection to existing improvements. The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion (damage within 3 years), urgency of replacement, alternative solutions and other pertinent factors. Non-structural solutions include (but are not limited to) soil bioengineering, enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

#### (II) General Shoreline Stabilization - New Development

1. New development, including the division of land into new parcels, shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization. New non-water dependent development that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties is prohibited.
2. New development, including single-family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below are met:
  - a. The need to protect the development from damage due to erosion cause by natural processes, such as currents and waves, and by manmade processes, such as boat wakes, is demonstrated through a geotechnical report.
  - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
  - c. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, low impact development measures, or installing on-site drainage improvements, are not feasible or not sufficient.
  - d. The stabilization structure will not result in a net loss of shoreline ecological functions.
3. New development on steep or unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis prepared by a geotechnical engineer of related professional licensed and in good standing in the State of Washington.

### (III) General Shoreline Stabilization - New or Expanded Measures

1. New structural stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary. These measures shall be permitted only when it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological function restoration projects or hazardous substance remediation projects from erosion, and that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

### (IV) General Shoreline Stabilization - Replacement and Repair

1. Shoreline stabilization solutions developed to replace existing shoreline stabilization shall be placed along the same alignment as, or landward of, the shoreline stabilization being replaced, except as noted below.
2. Where existing structural stabilization is replaced by non-structural shoreline stabilization using bioengineering techniques and results in a documented improvement of shoreline functions, such stabilization may be allowed waterward of the OHWM subject to state and federal approvals.
3. A major repair of a hard shoreline stabilization structure shall be allowed when the existing primary structure is 10 feet or less from OHWM. All other major repair proposals must include a written narrative prepared by a qualified geotechnical engineer that provides a demonstration of need. A major repair shall be defined as:
  - a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away, or otherwise demonstrated loss of structural integrity, or in which the repair work involves modification of the toe rock or footing, and the repair is 50% or greater than the linear length of the shoreline stabilization measure; or
  - b. A repair to more than 75% of the linear length of the existing hard structural stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
  - c. Minor repairs are repairs that do not meet the threshold established above and they shall be allowed without a demonstration of need.

### (V) General Shoreline Stabilization - Design Requirements

1. Shoreline stabilization and modification projects shall first avoid, and then minimize, adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions.
2. Shoreline stabilization should not be used to create new or newly usable land.

3. Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.
4. Shoreline stabilization shall be designed so as not to constitute a hazard and not to interfere substantially with visual access to the water.
5. Shoreline stabilization shall be designed so as not to not cause a significant impact to adjacent properties, including the need for shoreline stabilization elsewhere.
6. Professional design (as approved by the City) of all shoreline stabilization is required. All shoreline modification activities shall be in support of a permitted shoreline use that is in conformance with the provisions of this Master Program unless it can be demonstrated that such activities are necessary and in the public interest.
7. All shoreline modification activities must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
8. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features shall be considered when replacing existing and constructing new shoreline stabilization solutions.
9. Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

#### (VI) Enhancement

1. Enhancement along Muck Creek and Muck Lake may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt or adversely affect adjacent properties or habitat and all other standards of the SMP are followed.
2. Enhancement is limited to the placement of no more than 25 cubic yards of material below the OHWM. Proposals that exceed this threshold shall be subject to the requirements for Shoreline Fill in this Chapter; shall require a conditional use permit; and they shall only be allowed in conjunction with a water-dependent or public use permitted by this Master Program, and for fisheries, aquaculture, or wildlife enhancement projects.
3. Natural restoration/enhancement activities shall not:
  - a. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;

- b. Disturb significant amounts of valuable shallow water fish/wildlife habitat without appropriate mitigation of the impacts.
4. The size and/or mix of new materials to be added to a shore shall be as similar as possible to that of the natural shoreline sediment, but large enough to resist normal current action at the site.
5. The restored shore shall approximate, and may slightly exceed, the natural shore width, height, bulk or profile, but not as much as to create additional dry land.
6. Shoreline enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected and where enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

#### (VII) Soil Bioengineering

1. All soil-bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.
2. Unless Critical Area Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred (100) percent reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to reestablish vegetation adequately shall be replanted with approved plant materials until the plantings are viable. The Shoreline Administrator may establish additional performance standards in administrative rules.
3. Bank stabilization in the form of a vegetated buffer zone shall be maintained (e.g., weeding, watering, dead plant replacement) for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of buffer plantings.
4. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

#### (VIII) Bulkheads

1. Bulkhead design and development shall conform to all other applicable local, state, and federal agency regulations, including regulations for shoreline stabilization in this Chapter.
2. On shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed bulkhead would not cause erosion of the adjoining properties.

3. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing OHWM such that no net loss of lake or riparian area occurs and the design complies with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
4. Replacement bulkheads shall not encroach waterward of the OHWM or existing structure unless the structure is a residence that was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
5. Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by waves provided that:
  - a. The replacement bulkhead is designed, located, sized, and constructed to assure no net loss of ecological functions;
  - b. The existing bulkhead is removed; and
  - c. The proposal includes a report prepared by a geotechnical engineer or other qualified professional that evaluates the necessity of the bulkhead by estimating timeframes and rates of erosion, urgency of replacement (within 3 years), alternative solutions and other pertinent factors.
6. When a bulkhead is required at a public access site, provisions for safe access to the water shall be incorporated into bulkhead design.
7. Stairs or other permitted structures may be built into a bulkhead, but they shall not extend waterward of a bulkhead.
8. Fill behind bulkheads shall be limited to an average of one (1) cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations in this SMP pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

#### (IX) Groins

1. Groins are prohibited within all shoreline environment designations.

#### (X) Riprap

1. Riprap design and development shall conform to all other applicable local, state, and federal agency regulations, including regulations for shoreline stabilization in this Chapter.

2. On shorelines where no riprap is adjacent, the construction of with riprap shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed riprap would not cause erosion of the adjoining properties.
3. Riprap may tie in flush with existing riprap on adjoining properties, provided that the new area of riprap does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining area of riprap. In such circumstances, the remaining portion of the riprap shall be placed landward of the existing OHWM such that no net loss of lake or riparian area occurs and the design complies with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
4. Replacement riprap shall not encroach waterward of the OHWM or existing structure unless the structure is a residence that was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
5. Replacement or riprap may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by waves provided that:
  - a. The replacement riprap is designed, located, sized, and constructed to assure no net loss of ecological functions;
  - b. The existing riprap is removed; and
  - c. The proposal includes a report prepared by a geotechnical engineer or other qualified professional that evaluates the necessity of the riprap by estimating timeframes and rates of erosion, urgency of replacement (within 3 years), alternative solutions and other pertinent factors.
6. When a riprap is required at a public access site, provisions for safe access to the water shall be incorporated into design of the riprap.

#### (XI) Weirs

1. Weirs are prohibited within all shoreline environment designations.

## **E. Dredging and Disposal**

### **1. Applicability**

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. In a lake or riparian setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material.

Dredge material is disposed of on land or into water bodies and may be intended for creating new or additional lands for other uses. Dredge spoil varies from clean river sand to

organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

Of all activities on shorelines, dredging poses one of the greatest threats to water quality and aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment in the following ways:

1. Temporary reduction of water clarity from suspended sediments,
2. Loss of aquatic plants and animals by direct removal or from the sedimentation of suspended materials,
3. Alteration of the nutrient and oxygen levels of the water column, and
4. Suspension of toxic materials from the sediments into the water column.

## **2. Dredging Policies and Regulations**

### *a) Policies*

1. In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values. Proposals that include dredging should provide mitigation to achieve no net loss of shoreline ecological functions.
2. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
3. Dredging waterward of the OHWM for the primary purpose of obtaining fill should not be allowed, except as part of a restoration or environmental cleanup project.
4. The City may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

### *b) Regulations*

1. Dredging and disposal of dredge material shall avoid, and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
2. New development siting and design shall avoid the need for new and maintenance dredging.
3. Dredging may be permitted as a conditional use activity only:
  - a. When necessary to support a water-dependent use;
  - b. For expansion or alteration of public utility facilities;
  - c. As part of mitigation actions, environmental restoration and habitat enhancement projects;

- d. When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired;
  - e. When other solutions would result in greater environmental impact;
  - f. As part of an approved habitat improvement project;
  - g. If it improves water quality; and
  - h. When applicable permits of other local, state and federal agencies have been obtained.
4. Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.
  5. Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. When dredging is allowed for fill materials, placement of fill must be waterward of the OHWM.
  6. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of shoreline ecological functions.
  7. Dredging material, which will not subsequently cause violation of State Water Quality Standards, may be used in permitted landfill projects.
  8. Dredging shall be timed so that it does not interfere with aquatic life.
  9. Depositing dredge materials in water areas shall be prohibited
  10. Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
  11. Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

## **F. Fill**

### **1. Applicability**

Fill is the placement 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.

Fill is considered usually in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition, these same areas provide valuable habitat for fish and wildlife feeding, breeding, and shelter. Biologically, the shallow vegetation areas tend to be highly productive portions of a riparian area or lake. For these reasons, governmental agencies and scientific experts have generally sought to prohibit or restrict fill.

The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

Fill occurring on dry land landward of the OHWM which does not exceed a cost of five thousand seven hundred eighteen (\$5,718) dollars or 250 cubic yards of material (per WAC 173-27-040), does not require a shoreline substantial development permit, as noted elsewhere in this Master Program. This development, however, must comply with all other applicable policies and regulations as defined in this Master Program.

## 2. Fill Policies and Regulations

### *a) Policies*

1. Shoreline fill should be permitted as a conditional use in all shoreline environments, and only when tied to a specific development proposal that is permitted by the Master Program.
2. Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.
3. In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the SMA and this Master Program.
4. Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part of an interagency clean-up plan, disposal of dredged sediments in accordance with Department of Natural Resources (DNR) rules, expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and for mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
5. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.
6. The perimeter of fills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.

### *b) Regulations*

1. Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.
2. Fills waterward of the OHWM (not including small-scale restoration that does not exceed the 25 cubic yard threshold) shall require a conditional use and shall be restricted to the minimum necessary to:
  - a. Support water-dependent uses,
  - b. Provide public access,
  - c. Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan,
  - d. Allow the disposal of dredged sediments in accordance with DNR rules,
  - e. Provide for the expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and
  - f. Accomplish mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
3. Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
4. All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.
5. Fill shall be permitted only where it is demonstrated that the proposed action will not:
  - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
  - b. Adversely alter natural drainage and circulation patterns, or significantly reduce floodwater-holding capabilities.
6. No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted within the Muck Lake or Muck Creek shoreline areas.
7. Any placement or removal of materials landward of the OHWM shall comply with the provisions of Vegetation Conservation (Clearing and Grading) of this SMP.

## **G. Overwater Structures**

### **1. Applicability**

Regulations for overwater structures are not applicable to the City. Bridges for motorized and non-motorized uses do not fall under this section. Regulations for bridges for motorized or non-motorized uses are addressed in Chapter 4 under Transportation Facilities. There are no known overwater structures such as piers, docks, or floats existing or anticipated within the City of Roy's shoreline jurisdiction. Muck Creek and Muck Lake do not generally accommodate navigation. The City does not anticipate future demand for overwater structures. Overwater structures on Muck Creek and Muck Lake are prohibited in the City of Roy's shoreline environment.

### **2. Policies**

1. Prohibit overwater structures within all shoreline environment designations.

### **3. Regulations**

1. Overwater structures are prohibited in all shoreline designations.

# Chapter 6: Administration

## A. Purpose and Applicability

The following outlines the administrative system designed to assign responsibilities for implementation of the SMP and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP. Where inconsistencies or conflicts with other sections of the RCC occur, this section shall apply.

## B. Program Administrator

The City's Shoreline Administrator is hereby vested with:

1. Overall responsibility for administering the SMA and this SMP;
2. Authority to approve, approve with conditions, or deny shoreline permit revisions in accordance with the policies and provisions of this SMP; and
3. Authority to grant statements of exemption from shoreline substantial development permits in accordance with the policies and provisions of this SMP.

The duties and responsibilities of the Shoreline Administrator shall include:

1. Preparing and using application forms deemed essential for the administration of this SMP.
2. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this SMP.
3. Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.
4. Collecting applicable fees, as established by the City in RCC 3-2-1.
5. Determining that all applications and necessary information and materials are provided.
6. Conducting field inspections, as necessary,
7. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs.
8. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required.
9. Providing copies of permit applications to relevant staff and agencies for review and comment.

10. Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions.
11. Submitting shoreline substantial development permit, shoreline variance and conditional use permit applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action.
12. Submitting shoreline redesignation permit applications and written recommendations and findings on such permits to the Hearing Examiner for recommendation to the City Council.
13. Assuring that proper notice is given to appropriate persons and the public for all hearings.
14. Providing technical and administrative assistance to the City's Hearing Examiner and City Council as required for effective and equitable implementation of this program and the Act.
15. Investigating, developing, and proposing amendments to this SMP as deemed necessary to more effectively and equitably achieve its goals and policies.
16. Enforcing and seeking remedies for alleged violations of this program, the provisions of the SMA and this SMP or of conditions of any approved shoreline permit issued by the City. The Shoreline Administrator may delegate these enforcement duties to a designated representative.
17. Acting as the primary liaison between local and state agencies in the administration of the SMA and this SMP.
18. Forwarding shoreline permits to Ecology for filing or action.

### **C. Review Criteria for All Development**

1. All proposed uses, activities and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, i.e. the SMA, its implementing rules and this SMP, whether or not a permit is required.
2. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the SMA and the SMP.
3. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where the SMP does not prohibit the same and then only when overriding considerations of the public interest will be served.
4. A substantial development shall not be undertaken within the jurisdiction of the SMA unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.

5. The City may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.

## D. Exemptions

1. The following guidelines are to be used in determining whether or not a development proposal is exempt from the substantial shoreline development permit.
  - a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
  - b. An exemption from the substantial development permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a variance.
  - c. The burden of proof that a development or use is exempt from the permit process is on the applicant.
  - d. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
  - e. The Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP.
2. The following list outlines twelve (12) exemptions that shall not be considered substantial developments for the purpose of this SMP:
  - a. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven (\$7,047) dollars, if such development does not materially interfere with the normal public use of the water or "shorelines of statewide significance." The Office of Financial Management must adjust the dollar threshold established in this subsection for inflation every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. 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;
  - b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable

period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource 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 effects to shoreline resources or environment;

- c. 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 OHWM 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 one cubic yard of fill per one 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 OHWM 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 OHWM. Sediment 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 Washington Department of Fish and Wildlife;
- d. 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, which requires immediate action within a time too short to allow full compliance with the SMA or this SMP. 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, upon abatement of the emergency the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to the SMA and this SMP, obtained. All emergency construction shall be consistent with the policies of the SMA and this SMP. 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;
- e. Construction by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and meets all requirements of the City, other than requirements imposed pursuant to the SMA. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership, which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and the perimeter of a wetland. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank

and drainfield, and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. Construction authorized under this exemption shall be located landward of the OHWM and shall be subject to required setbacks;

- f. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface waters;
  - g. Any project with certification from the Governor pursuant to Chapter 80.50 RCW.
  - h. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
    - i. The activity does not interfere with the normal public use of the surface waters;
    - ii. 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;
    - iii. 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;
    - iv. 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.
  - i. 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 that are recommended by a final environmental impact statement published by the Department of Agriculture or Ecology jointly with other state agencies under chapter 43.21C RCW;
  - j. Watershed restoration projects as defined in WAC 173-27-040(o)(i). The Shoreline Administrator shall review the projects for consistency with the 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. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects.
  - k. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the requirements of WAC 173-27-040(p) apply. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria identified in WAC 173-27-040(p) and that are reviewed and approved according to the provisions of this section.
  - l. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities. (Sub. Ord. 966, 8-13-2018)
5. Whenever a development falls within the exemption criteria outlined above and the development is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Shoreline

Administrator shall prepare a Statement of Exemption, and transmit a copy to the applicant and Ecology. Exempt development as defined herein shall not require a substantial development permit, but may require a conditional use permit, variance and/or a Statement of Exemption.

6. Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria. The exemption granted may be conditioned to ensure that the activity is consistent with the SMP and the SMA.

## E. Permit Process

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.
2. Shoreline substantial development permits, shoreline variance permits and shoreline conditional use permits are Type III-A applications and shall be processed and subject to the applicable regulations of Chapter 11-4 RCC.
3. An applicant for a shoreline substantial development permit, who wishes to request a variance and/or conditional use, shall submit the variance and/or conditional use application(s) and the substantial development permit application simultaneously.
4. Public notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 11-4 RCC, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-110(2)(e).
5. Application review. The Shoreline Administrator shall make decisions on shoreline exemptions, and recommendations on applications for conditional use and variance permits based upon: (1) the policies and procedures of the SMA and related sections of the Washington Administrative Code and (2) this SMP.
6. Hearing Examiner action. The Hearing Examiner shall review an application for a shoreline substantial development permit, shoreline variance and shoreline conditional use permit. The Hearing Examiner shall make decisions based upon: (1) this SMP; (2) the policies and procedures of the SMA and related sections of the Washington Administrative Code; (3) written and oral comments from interested persons; (4) reports from the Shoreline Administrator; and (5) Section 1-6A-4 and Chapters 11-4 and 11-8 RCC.
7. Filing with Ecology. All applications for a permit or permit revision shall be submitted to Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a conditional use or variance permit, the City shall submit the permit to Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City.
8. Hold on Construction. Each permit issued by the City 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 filing with Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of

the City's final decision on substantial development permits differs from date of filing for a conditional use permit or variance. In the case of a substantial development permit, the date of filing is the date that Ecology receives the City's decision. In the case of a variance or conditional use permit, the "date of filing" means the date Ecology's final order on the permit is transmitted to the applicant and City. For site development permits simultaneously mailed with a conditional use permit or variance, the "date of filing" means the date Ecology's final order on the conditional use permit or variance is transmitted to the applicant and City. (Sub. Ord. 966, 8-13-2018)

9. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Shoreline Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and Ecology, for up to one (1) year based on reasonable factors.
10. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity. All uses and developments occurring within shoreline jurisdiction shall be compliant with 90.58 RCW.

## **F. Substantial Development Permits**

1. A substantial development permit shall be granted only when the development proposed is consistent with the following:
  - a. The policies and procedures of the SMA;
  - b. Applicable state regulations; and
  - c. The provisions of this SMP.
2. Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

## **G. Variances**

1. Purpose. The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the SMP, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. These provisions should be applied in a manner, which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner. Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

## 2. Criteria for Granting Variances

- a. Variances for development that will be located landward of the OHWM and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:
  - i. 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.
  - ii. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP and not, for example, from deed restrictions or the applicant's own actions.
  - iii. That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to the shoreline environment.
  - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
  - v. That the variance requested is the minimum necessary to afford relief.
  - vi. That the public interest will suffer no substantial detrimental effect.
- b. Variances for a development and/or uses that will be located waterward of the OHWM or within any wetland may be authorized provided the applicant can demonstrate all of the following:
  - i. That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes all reasonable use of the property.
  - ii. That the proposal is consistent with the criteria established under subsection (2)(a) through (f) of this section.
  - iii. That the public rights of navigation and use of the shorelines will not be adversely affected.
- c. In the granting of all variances, 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.
- d. Variances from the use regulations of the SMP are prohibited.

## H. Conditional Uses

1. Purpose. The purpose of a conditional use permit is to provide a system within the SMP, which allows flexibility in the application of use regulations in a manner consistent with the policies of

RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and the SMP. Uses that are specifically prohibited by this SMP may not be authorized with the approval of a conditional use permit.

2. Criteria for Granting Shoreline Conditional Use Permits. Uses which are classified or set forth as conditional uses in the SMP may be authorized, provided the applicant demonstrate all of the following conditional use criteria as listed in WAC 173-27-160:
  - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this SMP;
  - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - e. That the public interest suffers no substantial detrimental effect.
3. 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.
4. Other uses, which are not classified 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 the SMP.
5. Uses, which are specifically prohibited by the SMP, may not be authorized.

## **I. Time Requirements of Permit**

1. The time requirements of this section shall apply to all shoreline substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this SMP and this chapter, the City may adopt different time limits from those set forth in section as a part of action on a substantial development permit.
2. Notwithstanding any other provision of the RCC, construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, the Shoreline Administrator may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and

notice of the proposed extension is given to parties of record on the substantial development permit and to the department.

3. Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to Ecology.
4. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in RCW 90.58.140 subsections (B) and (C) do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.
5. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired. Provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
6. The City shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application

## **J. Nonconforming Use and Development Standards**

### **1. Applicability**

“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 this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. Standards for nonconforming use or development in the shoreline area are provided below. In the event of a conflict between the standards below and the standards contained in the RCC, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City.

### **2. Nonconforming Structures**

- a. Structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Modification or addition to a nonconforming structure shall not increase the building footprint lying within the above described setback area.

- b. If a nonconforming structure is intentionally modified and the cost of the proposed development exceeds fifty (50) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in the SMP.
- c. If a nonconforming structure is unintentionally damaged, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within twelve months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.
- d. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- e. The City's Shoreline Administrator may authorize relocation of a nonconforming structure, provided the structure is brought as closely as practicable into conformance with the applicable provisions of this Shoreline Program. (Sub. Ord. 966, 8-13-2018)

### 3. Nonconforming Use

- a. Uses that were legally established and are nonconforming with regard to the use regulations of the SMP may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded.
- b. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.
- c. A structure, which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
  - i. No reasonable alternative conforming use is practical; and
  - ii. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.
  - iii. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the SMA and to assure that the use will not become a nuisance or a hazard.
- d. A nonconforming use may be re-established as a nonconformance, except that any nonconforming use that is discontinued for a period of one (1) year shall not be allowed to continue as the nonconforming use.

### 4. Nonconforming Lots

- a. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established prior to the effective date of the SMA or the SMP, but which does not conform to the present lot size standards, may be developed subject to the requirements of

the RCC and so long as such development conforms to all other requirements of the SMP and the SMA.

## **K. Appeal to the State Shoreline Hearings Board**

Any person aggrieved by the granting or denying of a shoreline substantial development permit, variance, or conditional use permit, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this SMP, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within twenty-one (21) days of receipt of the final order and by concurrently filing copies of such request with Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC. A copy of such appeal notice shall also be filed with the City Clerk.

## **L. Enforcement and Penalties**

The Shoreline Administrator and/or his designated representative shall enforce all provisions of this SMP. The enforcement procedures and penalties contained in WAC Chapter 173-27 and RCW Chapter 90.58 are hereby incorporated by reference.

## **M. Master Program Review**

1. This SMP shall be reviewed periodically and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations.
2. The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.
3. As part of any required SMP update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
4. The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

## **N. Amendments to the Master Program**

1. Any of the provisions of this SMP may be amended as provided for in RCW 90.58.120, .200, and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in RCC 11-36.

2. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

## **O. Severability**

If any provisions of this SMP, or its application to any person or legal entity or parcels of land or circumstances are held invalid, the remainder of the SMP, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

## **P. Conflict of Provisions**

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

## **Q. Exceptions to Local Review**

Requirements to obtain a shoreline substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW. (Sub. Ord. 966, 8-13-2018)

## **R. Special Procedures for WSDOT Projects**

1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.
2. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions. (Sub. Ord. 966, 8-13-2018)

# Chapter 7: Definitions

**Accessory Use** – A use incidental, related and clear subordinate to the principal use of a lot or main building. An accessory use is only located on the same lot as a permitted principal use.

**Act** - The SMA (Chapter 90.58 RCW and WAC Chapter 173-27).

**Adoption by Rule** – An official action by Ecology to make a local government SMP effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05, thereby incorporating the adopted SMP or amendment into the state master program.

**Agriculture** – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020.

**Appurtenance** - A structure or development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drainfield] and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

**Aquaculture** - The commercial cultivation of fish, shellfish, and/or other aquatic animals or plants including the incidental preparation of these products for human use.

**Archaeological Standards** - Rules, regulations, or guidelines relating to the scientific study of material remains of past human life and activities.

**Architectural Standards** - Rules, regulations, or guidelines relating to the design, size, configuration or location of buildings and structures including setbacks, height, and bulk restrictions. It may include other structural design or configuration conditions required as part of a variance or conditional use permit intended to improve the compatibility between adjacent structures, activities, or uses.

**Associated Wetlands** - Those wetlands that are in proximity to and either influence, or are influenced by, tidal waters or a lake or stream subject to the SMA. Refer to WAC 173-27-030(1).

**Best Available Science** - Current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925.

**Berm** - A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. In addition, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

**Best Management Practices (BMPs)** - BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters.

**Bog** - A wet, spongy, poorly drained area, which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

**Bulkhead** - means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

**Clean Water Act** - The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

**City** - The City of Roy.

**Clearing** – The destruction, disturbance or removal of logs, scrub-shrub, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

**Comprehensive Plan** - Comprehensive plan means the document, including maps adopted by the City Council in accordance with applicable state law.

**Conditional Use** –A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).

**Critical Areas Ordinance 695, City of Roy** - This purpose of this ordinance is to protect the functions and values of ecologically sensitive areas while allowing for reasonable use of private property, through the application of best available science; implement the Growth Management Act (GMA) and the natural environment goals of the Comprehensive Plan; and protect the public from injury and loss due to slope failures, erosion, seismic events, volcanic eruptions, or flooding.

**Cumulative Impact** - The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**Development** - 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 of the state overlying lands subject to Chapter 90.58

RCW at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or redevelopment (RCW 90.58.030(3d)). (Sub. Ord. 966, 8-13-2018)

**Dredging** - Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

**Dwelling Unit** – One or more rooms designed for or occupied by one family for sleeping and living purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. Includes apartments, hotel rooms available on a month-to-month basis with kitchen facilities, designated manufactured and group homes, but excludes recreational vehicles.

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

**Ecosystem-wide Processes** - 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.

**Emergency** - An unanticipated and imminent threat to public health, safety, or the environment, which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

**Endangered Species Act (ESA)** - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

**Environmental Impacts** – Means the effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA). Refer to WAC 197-11-600 and WAC 197-11-444.

**Environments, (Shoreline Environment)** - Designations given specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a Master Program.

**Exemption** - Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (WAC 173-27-040). For a complete list of exemptions, see Chapter 8.

**Fair Market Value** – “Fair market value” of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

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

**Floodplain** - Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream-derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

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

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

**Grading** – The clearing of trees, brush, scrubs or grass or excavating, filling, or leveling of surface contours.

**Groin** – A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement

of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

**Historic Resources** - Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

**Hydric Soils** - Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-030(5)).

**Impervious Surface** – The area of a lot that is covered by impervious surfaces, measured by percentage. Any nonvertical 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, but excluding landscaping and surface water retention/detention facilities.

**In-Stream Structure** – Means a structure placed by humans within a stream or river waterward of the OHWM that either causes or has 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, fish habitat enhancement, or other purpose.

**Interested Party** - Synonymous with "party of record", all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail (WAC 173-27-030(12)).

**Lake** - A body of standing water in a depression of land or expanded part of a river, including reservoirs, that is twenty (20) acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream (RCW 90.58.030(1d); WAC 173-20-030; WAC 173-22-030(4)).

**Landscaping** - Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

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

**Mitigation or Mitigation Sequencing** - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020 (30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

- Avoiding the impact all together by not taking a certain action or parts of an action;

- 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;
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- Reducing or eliminating the impact over time by preservation and maintenance operations;
- Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- Monitoring the impact and the compensation projects and taking appropriate corrective measures.

**Must** - "Must," means a mandate; the action is required.

**Native Vegetation** – Vegetation comprised of plant species that are indigenous to an area.

**Nonconforming Use or Development** - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

**Normal Maintenance** - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also Normal repair.

**Normal Repair** - To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2b)). See also Normal maintenance.

**Ordinary High Water Mark (OHWM)** - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

**Off-Site Replacement** - To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

**On-Site Replacement** - To replace wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted by a regulated activity.

**Overwater Structure** - Any device or structure projecting over the OHWM, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

**Permit (or Shoreline Permit)** - Any substantial development, variance or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

**Practicable Alternatives** – Alternatives to the proposed project that will accomplish essentially the same objective as the original project while avoiding or having less adverse impacts.

**Priority Habitat** - 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. Important marine mammal haul-out;
- i. Refugia habitat;
- j. Limited availability;
- k. High vulnerability to habitat alteration;
- l. Unique or dependent species; or
- m. Shellfish bed.

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

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

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

232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- d. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

**Properly Functioning Conditions (PFC)** - Conditions that create and sustain natural habitat-affecting processes over the full range of environmental variation, and that support productivity at a viable population level of PTE species. PFC indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of PTE species.

**Proposed, Threatened, and Endangered (PTE) Species** - Those native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act.

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

**Public Interest** - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

**Public Use** - Public use means to be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

**RCW** - Revised Code of Washington.

**RCW 90.58** - The SMA of 1971.

**Recreational Facilities** - Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational facilities are divided into two categories:

- a. Water-dependent (i.e. – moorage facilities, fishing piers, recreational floats) and
- b. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping)

**Residential Development** - Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multi-family development and the creation of new residential lots through land division.

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

**Riparian** - Of, on, or pertaining to the banks of a river, stream or lake.

**Riprap** - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

**Runoff** - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

**Setback** - A required open space, specified in SMPs, measured horizontally upland from and perpendicular to the OHWM.

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

**Shorelands or Shoreland Areas** - Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous flood plain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters, which are subject to the provisions of the SMA. Shorelands in the City are limited to those areas within 200 feet of the OHWM Muck Lake, Muck Creek and any associated wetlands.

**Shoreline Administrator** – As appointed by the Mayor, the Shoreline Administrator is charged with the responsibility of administering the SMP.

**Shoreline Environment Designations** - The categories of shorelines established by local SMPs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

**Shoreline Jurisdiction** - The term describing all of the geographic areas covered by the SMA, related rules, the applicable master program, and such areas within a specified local government's authority under the SMA. In the City, shoreline jurisdiction includes Muck Creek and Muck Lake,

those areas within 200 feet of the OHWM of Muck Creek and Muck Lake and any associated wetlands. See definitions of Shorelines, Shorelines of the state, Shorelines of statewide significance, Shorelands, and Wetlands.

**Shoreline Management Act (SMA)** - Chapter 90.58 RCW, as amended. Washington's SMA was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

**Shoreline Master Program (SMP)** - The comprehensive use plan and related use regulations, which are used by local governments to administer and enforce the permit system for shoreline management. Master programs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

**Shoreline Modification** - Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

**Shoreline Permit** - A substantial development, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

**Shoreline Stabilization** – Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as soil bioengineering.

**Shorelines** - All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

**Shorelines Hearings Board** - A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government. See RCW 90.58.170; 90.58.180.

**Shorelines of Statewide Significance** - A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

**Shorelines of the state** - Shorelines and shorelines of statewide significance.

**Should** - "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this Master Program, against taking the action.

**Sign** – Any device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions; b) identifying or advertising any place, establishment, product, good or service.

**Single-family Residence** - A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2g)).

**Solid Waste** - Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

**Stream** - A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than 20 cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

**Structure** - A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

**Substantial Development** - Any development of which the total cost or fair market value exceeds seven thousand forty seven dollars (\$7,047), or any development, which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). 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. A list of activities and developments that shall not be considered substantial development is provided in Chapter 8 (WAC 173-27-040(2)(a)). (Sub. Ord. 966, 8-13-2018)

**Upland** - Generally described as the dry land area above and landward of the OHWM.

**Utilities** - Services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications.

**Utilities, Accessory** - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.

**Utilities, Primary** – Utilities comprised of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage

treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

**Variance** - A means to grant relief from the specific bulk, dimensional or performance standards specified in the applicable master program, but not a means to vary a shoreline use. Variance permits must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

**Water-Dependent Use** - A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

**Water - Enjoyment Use** - A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the 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** - Refers to any combination of water-dependent, water-related, and/or water enjoyment uses and serves as an all-encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses, which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

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

- a. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,
- b. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

**Watershed restoration plan** - A plan developed or sponsored by the Department of Fish and Wildlife, Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to 43.21C RCW, the State Environmental Policy Act.

**Weir** – A low dam built across a stream to raise its level, divert its flow and/or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have negative impacts depending on how they are constructed, e.g. detrimental impacts on fish habitat conditions.

**Wetlands** – “Wetlands” or “wetland areas” means 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.

# Appendix 1: Maps