

## CHAPTER 1: INTRODUCTION

### Background: Shoreline Management in Washington State

#### The Shoreline Management Act

In 1971, in response to a citizens' initiative, the Washington State Legislature passed the Shoreline Management Act (the "SMA" or "Act"). The SMA was adopted by the public in a 1972 referendum. Its purpose is to manage the shorelines of the state in order to protect the public interest in shoreline resources.

Some of the key provisions of the SMA are summarized in this chapter and in other parts of this SMP. You can view the entire SMA (RCW 90.58) on the Washington State Legislature's web site at <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58>. The sites listed below also offer information about the SMA and shoreline management in the State of Washington.

- Municipal Research and Services Center of Washington (MRSC):  
<http://www.mrsc.org/Subjects/Environment/shorelin.aspx>.
- Washington Department of Ecology:  
[http://www.ecy.wa.gov/programs/sea/SMA/st\\_guide/SMP/index.html](http://www.ecy.wa.gov/programs/sea/SMA/st_guide/SMP/index.html).

The SMA applies to cities and counties throughout Washington that have "Shorelines of the State" within their jurisdictional boundaries.

#### Shoreline Master Programs

Water is one of ~~Okanogan County's~~ Washington State's most important natural resources. Whether ~~it is~~ for domestic consumption, municipal or industrial use, irrigation, recreation or habitat for myriad fish and wildlife species, water and the many beneficial uses it supports are the basis for life and the economy in the city of Pateros and Okanogan County.

The goal of shoreline management planning is "to prevent the inherent harm from uncoordinated and piecemeal development of the state's shorelines." One of the ways in which the city of Pateros protects shoreline resources is through the preparation, adoption, implementation and updating of Shoreline Master Programs.

Under the SMA each city and county that includes "Shorelines of the State" must adopt a Shoreline Master Program (SMP) that is based on state laws and rules but may be tailored to the specific needs of the community. The SMP is essentially a shoreline comprehensive plan (that is, a planning document) and zoning ordinance (that is, a regulatory document) applicable to shoreline areas and customized to local circumstances.

SMPs are developed and administered by local jurisdictions in partnership with the Washington State Department of Ecology (Ecology). Local governments—in this case, the city of Pateros—develop SMPs that reflect local conditions and meet local needs. Ecology reviews the programs prior to final adoption. In reviewing master programs, Ecology is limited to a decision on whether or not the proposed changes are consistent with the policy and provisions of the Act and the SMP guidelines (see below for a discussion of the SMP guidelines).

Local governments also administer SMPs—that is, review project proposals, issue permits, and enforce the SMP regulations. Ecology reviews Shoreline Conditional Use Permits and Variances and may review some of the local governments’ other permit decisions.

## Shorelines of the State

Shorelines of the State can be divided into two categories: “*Shorelines*” and “*Shorelines of Statewide Significance*.” In ~~Okanogan County~~Pateros,

*Shorelines* include:

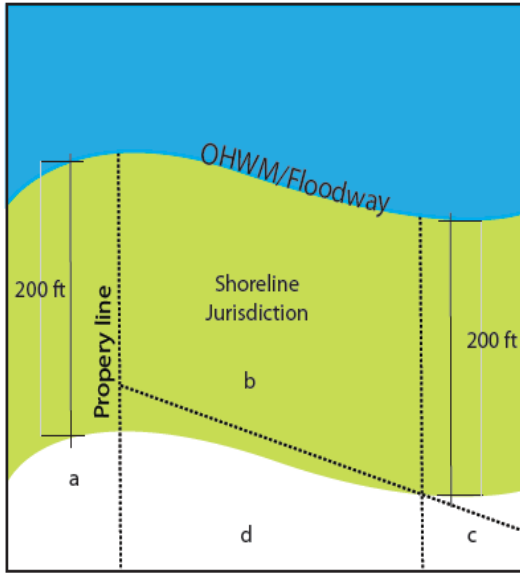
- All streams and associated shorelands, together with the lands underlying them, beginning at the point where mean annual flow is 20 cubic feet per second (cfs) or more
- All lakes over 20 acres in size
- Shorelands (also called Shoreline Jurisdiction see diagram), as follows:
  - Upland areas that extend 200 feet from the ordinary high-water mark from the waters listed above measured on the horizontal; and
  - The following areas when they are associated with those waters:
    - Wetlands and river deltas; and
    - 100-year floodplains; or
  - In areas where the floodway has been mapped and delineated, the area is limited to 200 feet from the floodway.

*Shorelines of Statewide Significance* are those that have importance beyond the region; they are afforded special consideration. In ~~Okanogan County~~Pateros (and throughout Eastern Washington), shorelines of statewide significance include:

- Lakes with a surface acreage of one thousand acres or more (measured at the ordinary high-water mark);
- Streams downstream of a point where the annual flow is measured at two hundred cubic feet per second (200 cfs) or more, *or*, those portions of rivers downstream from the first three hundred square miles of drainage area, whichever is longer; and
- Shorelands associated with the lakes and rivers described in the two preceding bullets

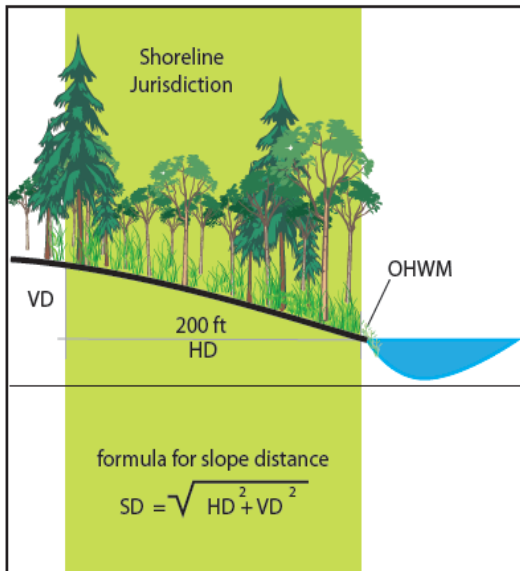
The Columbia River (Lake Pateros) and the Methow River are both Shorelines of Statewide Significance. Within this SMP, you can learn more about which other lakes and streams are considered Shorelines of the State in the places listed below:

- Chapter 5, “Shorelines of Statewide Significance”, discusses the additional considerations that apply to development on Shorelines of Statewide Significance. It also includes a list of those shorelines.

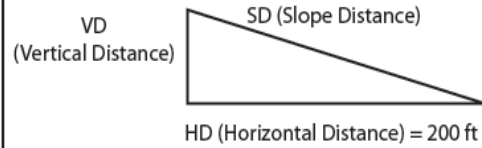


**Shoreline Jurisdiction**

- a & d. Parcels partially within Shoreline Jurisdiction
- b. Parcel wholly within Shoreline Jurisdiction
- c. Parcel outside Shoreline Jurisdiction



Shoreline jurisdiction as measured on the horizontal from the ordinary high watermark



$$\% \text{ slope} = \frac{VD \times 100}{HD}$$

slope distance is the measurement on the ground where the shoreline jurisdiction, setback and buffer are established

## Department of Ecology's Role

Since the SMA requires a cooperative effort between state and local governments in the protection of shoreline resources, the Department of Ecology has a significant role in the development and implementation of this Master Program. Most of Ecology's work involves providing technical assistance *prior* to a local decision and is focused in the following areas:

- Ecology shoreline specialists work with local planners on the phone, at pre-application meetings, and through site visits
- Ecology works with applicants to make sure the project does not harm shorelines—in many cases the project can be redesigned so that it meets the policies and regulations of the local master program
- Ecology often receives early notice of a project through SEPA, and works with applicants and local governments before the permit is issued.
- After a local government issues ~~its~~ a permits, Ecology has 21 days to review Substantial Development Permits and 30 days to review Conditional Use and Variance permits.
- Ecology's role is to determine if the local action is consistent with the local Master Program and the policies of the Act
- If Ecology disagrees with a local decision on a Substantial Development Permit, Ecology must appeal the decision to the Shoreline Hearings Board
- Ecology must approve, approve with conditions or deny all Conditional Use or Variance permits
- Ecology's decisions on Conditional Use or Variance permits may be appealed to the Shorelines Hearings Board
- While the primary responsibility to enforce the SMA rests with local governments, there exists a cooperative program between the local governments and Ecology. The cooperative program is to fulfill the duty to "ensure compliance." Enforcement is done through a variety of means, including technical assistance visits, notices of correction, orders, and penalties and permit rescission.

## SMP Guidelines

Department of Ecology issues Shoreline Master Program Guidelines in WAC 173.26. Information regarding Shoreline Master Program updates. Procedures and policies including new guidelines and updates can be found at the following URLs:

History and links. Include link to history:

[http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/SMA\\_History.pdf](http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/SMA_History.pdf).

Ecology site with link, background:

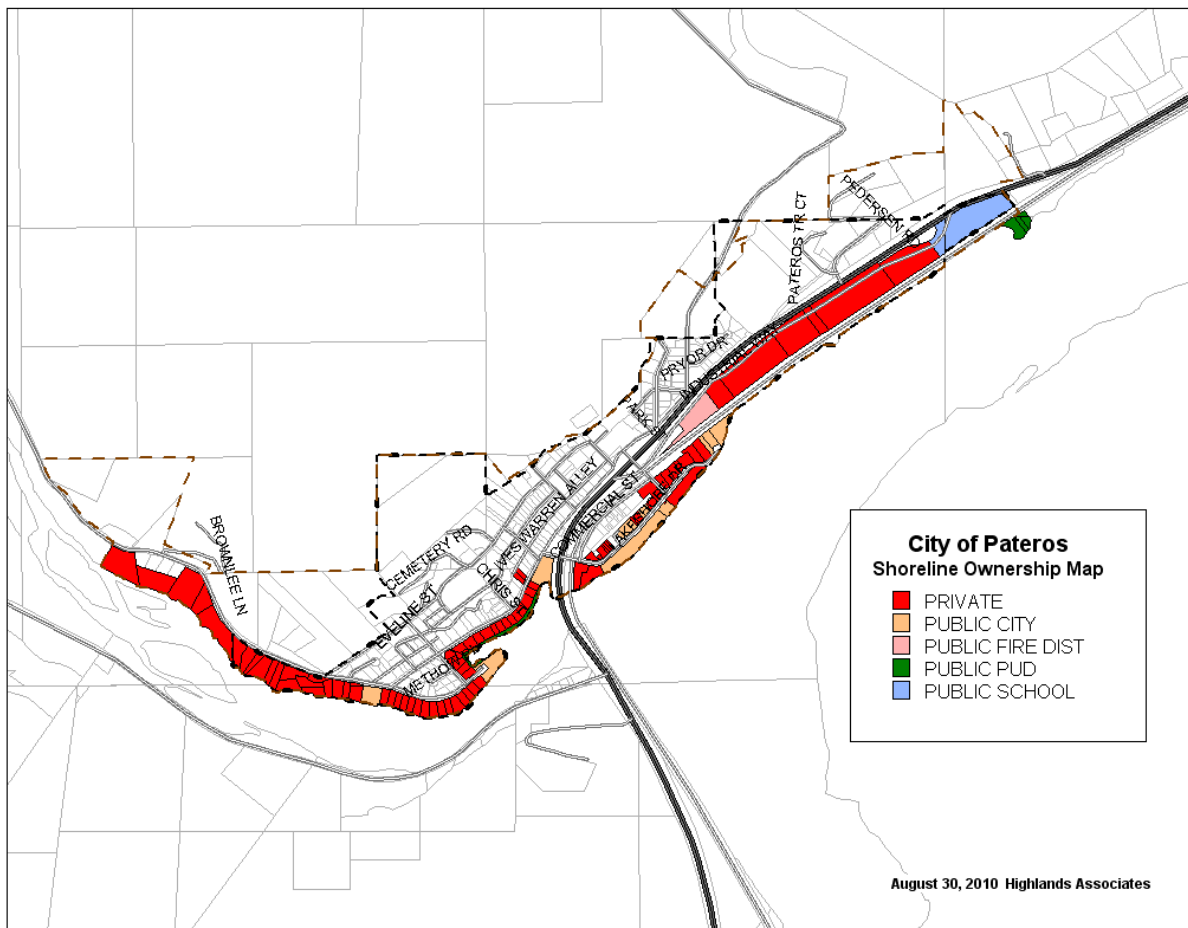
<http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>

State master program approval/amendment procedures and master program guidelines (WAC

## Land Ownership in Okanogan County

### Public Lands

This SMP applies to all lands owned by public agencies including, but not limited to, Federal, State, County, Public Utility and Municipal lands within the incorporated boundaries of the city of Pateros and is subject to administrative review for any development activities owned by public agencies within the city limits.



## Private Lands

This SMP applies to all privately owned lands within the incorporated boundary of the city of Pateros and is subject to administrative review for any development activities owned by private entities within the city limits.

## ~~The Okanogan County Cities and Towns Regional~~ Pateros SMP

This ~~regional~~ SMP was developed ~~from a regional effort that included Okanogan County and its for the~~ incorporated ~~municipalities~~ cities within Okanogan County. ~~Pateros~~ Each jurisdiction has tailored individual Goals and Policies (Chapter 6), Shoreline Designations (Chapter 7) and development regulations (Chapter 8) to address local needs and public ~~input from each jurisdiction~~.

Adoption of this updated SMP by the city ~~of Pateros~~ will repeal the existing SMP and bring the community into compliance with the requirements of SMA. The conditions of the grant awarded for the updated SMP requires ~~ad~~ adoption by the end of June 20~~23~~10.

## Jurisdiction

This SMP will regulate shorelines within the incorporated limits of the city Pateros. Shoreline Areas in the adopted Urban Growth Area are “predesignated” with the shoreline designation that will apply upon annexation of the area. However, until such time, those areas will be designated and regulated under the Okanogan County SMP as it exists or is amended.

## Relationships to other plans

The ~~Okanogan County Cities and Towns Regional~~ Pateros Shoreline Master program, ~~as tailored by the city of Pateros~~ will be adopted by reference into the Pateros Comprehensive Plan.

Critical areas within the City will be protected through regulations contained in Chapter 17.14 of the Pateros Municipal Code where such areas are found outside of shoreline jurisdiction, while those critical areas found within shoreline jurisdiction will be protected using the regulations adopted in this SMP.

Technical information for the characterization of the ~~County's~~ City's shorelines was undertaken as part of the regional SMP update and included information from the following plans:

- The Okanogan Basin Watershed Plan Wria 49
- The Methow Basin Watershed Plan Wria 48
- The Spring Chinook Salmon and Steelhead Recovery Plan
- Methow and Okanogan Sub Basin Plans

## General Policies and Concepts Used in this SMP

### Basic policies

The SMA establishes three basic policies, described below.

**1) *Protect shoreline natural resources***

...including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."

**2) *Encourage water-dependent uses***

Accommodate reasonable and appropriate 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..."

**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 the people generally."

## **Concepts**

### **Property rights**

RCW 90.58.020: "It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto."

### **No net loss**

"The point of the no net loss requirement is that local governments need to show that everything permitted under the new SMP, both on a project-by-project and cumulative basis, won't create a net loss of ecological functions. It's not that the SMP has to fix everything that happened before (including ongoing impacts), just that it can't create any NEW loss of ecological function."

On a project specific basis, we will require mitigation measures to achieve the no net loss standards under the shoreline master program. The mitigation measures will be considered as outlined below in order of descending preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

## Critical Areas

~~Local jurisdictions are~~ Pateros is required to designate critical areas as required by the Growth Management Act, RCW 36.70A. Critical Areas include the following areas and ecosystems, as designated by the city:

- wetlands;
- areas with a critical recharging effect on aquifers used for potable water;
- aquatic, riparian, upland and wetland Fish and Wildlife habitat conservation areas;
- frequently flooded areas; Channel Migration Zones;
- Geologically hazardous areas.

Critical areas within shoreline jurisdiction will have critical area protections within the Shoreline Master Program. Those areas outside shoreline jurisdiction will be regulated under the Chapter 17.14 PMC. Regulations for critical areas within shoreline jurisdiction can be found in Chapter 8.

## Channel Migration Zones

River channels can move, or migrate, laterally across their floodplains. Channel migration can occur gradually, as a river erodes one bank and deposits sediment along the other. Channel migration also can occur as an abrupt shift of the channel to a new location, called an avulsion, which may happen during a single flood event. The highest rates of channel migration occur in zones of rapid sediment deposition, e.g., where steep rivers flow out of foothills onto flatter floodplains. Channel migration represents a different type of flood hazard than inundation by overbank flow, and can endanger properties located outside of the regulatory floodplain. The channel migration zone (CMZ) refers to the geographic area where a stream or river has been and will be susceptible to channel erosion and/or channel occupation. See [http://www.ecy.wa.gov/programs/sea/sma/st\\_guide/jurisdiction/CMZ.html](http://www.ecy.wa.gov/programs/sea/sma/st_guide/jurisdiction/CMZ.html) for more information.

- Within incorporated municipalities and urban growth/future service areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.
- All areas separated from the active channel by existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone.

## **Preferred uses**

The SMA establishes the concept of *preferred uses* of shoreline areas. In order to balance the public's enjoyment of shorelines with "the overall best interest of the state and the people generally", the SMA gives preference to uses that:

- Are consistent with control of pollution;
- Are consistent with prevention of damage to the natural environment; or
- Are unique to or dependent upon use of the state's shoreline

The Act goes on to say that "'Preferred' uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved in the order of preference as such, for 'water-oriented' uses, including 'water-dependent', 'water-related' and 'water-enjoyment' uses."

## **Water-oriented uses**

Water oriented uses are water-dependent, water-related, or water-enjoyment, or a combination of such uses. Each of these types of water-oriented used are described in detail below.

### ***Water-dependent uses***

Water-dependent uses are uses or a portion of a use that cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations, such as portions of a marina or a hydroelectric generation facility.

### ***Water-related uses***

Water-related uses are those that must be located in shoreline areas in order to be economically viable. "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

### ***Water-enjoyment uses***

Water enjoyment uses such as a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the

general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

### ***Non-water-oriented***

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

### **Exempt uses**

Exempt activities are located in Section 11.12 of ~~the~~this shoreline master program. An exemption from the substantial development permit process is not an exemption from compliance with the Act or the shoreline master program, or from any other regulatory requirements. Exempt uses may require the issuance of a Statement of Exemption also known as a Shoreline Exemption Permit from the SMP administrator.

### **Conforming and non-conforming uses, structures and lots**

A nonconforming structure is a lawful structure existing at the effective date of the adoption of this SMP that could not be built under the terms of this code or any amendment thereto. Nonconforming uses are uses and developments that were legally established and are nonconforming with regard to the use regulations of the SMP may continue as legal nonconforming uses. A nonconforming lot is an undeveloped lot, tract, parcel, site, or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this SMP, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the responsible local government and so long as such development conforms to all other requirements of this SMP and the Act. Refer to Sections 11.17, 11.18, and 11.19 for further explanation.

### **Ecological Function and Value**

As one of the guiding policies of this SMP, basic policy #1 requires the protection of shoreline natural resources including the land and its vegetation and wildlife, and the water of the state and their aquatic life. Whenever the terms “shoreline functions and values” are used in this SMP, it shall refer to the ecological function and ecological value as described below. Similarly, this SMP is required to prevent no net loss in ecological function and value as established below:

#### ***Ecological Function***

- Ecological Function encompasses the ecological processes and interactions that occur within an ecological community. Ecological function includes:
  - Provision of habitat for native biota;
  - Provision of food and other resources for native biota;
  - Maintenance of interactions between species (e.g., pollination, dispersal, mutualism, competition, predation)
  - Cycling, filtering and retention of nutrients;
  - Carbon storage or sequestration;

- Maintenance of soil processes;
- Maintenance of catchment scale hydrological and geochemical processes;  
and
- Maintenance of landscape scale ecological processes.

### ***Ecological Value***

Ecological Value: attributes include productivity, the ability to provide habitats for dependent species and the diversity of species and organization they support.

**Riparian areas or zones:** Riparian means “*streamside*.” Riparian areas include the land adjacent to lakes, rivers and streams, the vegetation above it, and the groundwater area beneath it. Riparian areas are three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at a variable width. Riparian areas are particularly important to shoreline health because they are ecotones—transition areas between different ecosystems. Ecotones tend to display higher diversity than either of the adjacent ecosystems because they have characteristics of both of them. Riparian areas are no exception. Because they are low-lying and close to the watertable, they offer damp, fertile soil that typically supports more vegetation than either the water or the land alongside it. That vegetation provides habitat elements such as food and cover for many species of animals. The zone as a whole provides important ecological function and values including streamside habitat that supports in stream function and values such as cool water via shade, organic matter, nutrient cycling, and habitat structure for terrestrial species.

In areas where no riparian vegetation exists due to shoreline modifications or development such as fill or levee-protected areas, riparian zones may not occur or may not exhibit the full sweat of ecological functions and values as intact systems. Treatment of these highly altered riparian areas should consider both the potential for restoration or enhancement along with the communities’ desire to utilize the shoreline for water-dependent and water-oriented uses.

### **Upland**

The portion of the landscape above the valley floor and/or any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands. Such areas in floodplains are more appropriately termed non-wetlands. Uplands are also often used in relationship to streamside areas that do not have wetlands (see riparian definition above).

### **Upland Habitat**

Upland Habitat: The dry habitat zones adjacent to and landward of bodies of water.

Ecological Value: attributes include productivity, the ability to provide habitats for dependent species and the diversity of species and organization they support.

## **SMP Contents**

### ***Definitions Chapter 2***

This SMP provides definitions for terms and concepts intended to be used in the administration and interpretation of this SMP.

### ***Public Participation Chapter 3***

Development of the Okanogan County Regional SMP, on which this SMP is based, entailed a two-tier public participation process. The process included a Shoreline Advisory Group and a Technical Advisory Group. The groups met on a regular basis to review scientific findings, provide feedback and review document contents, including policies and regulations. Additionally, the Department of Ecology provided comments and editorial oversight throughout the development of this SMP. The Draft Regional SMP was released for general public review in October 2009. The Draft Regional SMP was then distributed to each jurisdiction to tailor it to individual needs and develop their own public participation plan for the document. The public participation plan for Pateros can be found in Chapter 3.

### ***Inventory, analysis, and characterization Chapter 4***

All of the shorelands potentially subject to regulation under the SMA have been inventoried to characterize the current shoreline function to develop a baseline that can be used to measure the no net loss standard against. The inventory captured opportunities for restoration, public access, and shoreline use patterns. All of this information helped inform the environment designations that have been applied to the shorelines under the SMA. More information on the characterization is located in Chapter 4 with associated appendices A and B.

### ***Shorelines of Statewide Significance Chapter 5***

Special consideration of shorelines of statewide significance can be found in Chapter 5. Chapter 5 assembles a set of guidelines intended to establish uses best suited for the long-term benefit of shorelines of statewide significance.

### ***Policies and Regulations Chapters 6 & 8***

The SMA requires each SMP to develop Policies and Regulations to meet the intent of the Act, guided by local environments and public participation. The SMP guidelines require particular uses and their associated impacts be addressed through policies that are enacted through regulations. Policies for specific uses are provided in Chapter 6 of this SMP.

Regulations are derived in support of specific policies as well as for the protection of the functions and values reflected in the Shoreline Designations (EDSD) and “no net loss” requirement of SMA. Shoreline Regulations are categorized by ED-SD and by specific uses. Chapter 8 provides regulations in the form of use and shoreline designation (EDSD) specific regulations.

***Shoreline Designations Chapter 7***

Shoreline designations are analogous to zoning designations for shoreline areas and determine development regulations for different segments of shoreline. Shoreline designations reflect the existing and desired character of a shoreline and to be achieved through development regulations and standards set forth in Chapter 8. Shoreline character is based on a scientific inventory and analysis known as the Shoreline Characterization as well as land use planning factors described briefly above and in greater detail in Chapter 4. The following designations have been applied to shorelines in Pateros:

**Shoreline Designations**

High Intensity

Shoreline Residential

Shoreline Recreation

Urban Conservancy

Natural

Aquatic

Permit and development requirements vary between Shoreline Designations. The different types of shoreline permits are explained briefly below, under the heading “Administration and Compliance”, and in greater detail in Chapter 11. Shoreline Use Chart (Table 8.2) and development standards are used together to determine allowable uses and permit requirements.

***Maps***

The shoreline Characterization and Designation Maps are available from the Pateros City Clerk. The shoreline designation map for the city of Pateros is included in Chapter 7.

To find out whether a particular use is allowed on a given parcel of land, the Shoreline Designation needs to be established by finding the parcel on shoreline designation. Once the Designation has been determined, the use chart in Table 8.2 (Chapter 8 – Regulations) lists what activities are allowed and what permits will be required for a proposed development. Similarly, the development standards in Tables 8.1 and 8.3 (Chapter 8 – Regulations) contain requirements such as bulk height, setbacks, buffer widths, lot coverage and clearing and grading standards.

***Cumulative Impact Analysis Chapter 9***

Chapter 9 includes an analysis of the cumulative impacts on the ecological function of the shoreline areas of Pateros.

***Restoration Plan Chapter 10***

Chapter 10 includes the restoration plan. Restoration is encouraged to achieve a net gain in ecological function.

### ***Administration Chapter 11***

The requirements for permitting shoreline uses and development are presented in administrative guidelines described in Chapter 11.

## **Types of Shoreline Permits**

There are four types of Shoreline Permits, issued either administratively by the city of Pateros or requires Ecology approval. Each permit is filed with the Department of Ecology:

- Shoreline Statement of Exemption (Administrative Approval)
- Shoreline Substantial Development Permit (Administrative Approval)
- Conditional Use Permits (local hearing, Ecology Approval)
- Variance (local hearing, Ecology Approval)

Conditional use permits and variance permits must go through a public hearing at the local level prior to submittal to Ecology. Once the local determination is made the application and supporting materials are sent to the Department of Ecology for their review. They make the final decision as to whether the CUP or Variance is allowed or denied. More information on permit issuance can be found in Chapter 11.

***Conditional Use Permits*** allow greater flexibility in applying use regulations of shoreline master program. A CUP is needed if a proposed use is listed as a conditional use in a local government's shoreline regulations, *or* if the SMP does not address the use.

***Variance*** permits are used to allow a project to deviate from an SMP's dimensional standards (e.g., setback, height, or lot coverage requirements).

## **Applicability**

### **What areas are regulated under this SMP?**

This SMP applies to all shorelines of the state in the city of Pateros.

Shorelines of the state include “Shorelines” and “Shorelines of Statewide Significance”, as defined in Chapter 2 under the heading “Shorelines of the State.”

### **Does this SMP apply to existing development?**

This SMP applies to new uses, new activities, and changes in use. Existing uses are generally “grandfathered”—that is, allowed to continue as legal uses—as long as they were legal at the time they began. An existing use that was legal when it began but would not be allowed as a new use under the current SMP is considered a legal nonconforming use. More information about

changes in use, conforming and nonconforming uses, and how they are handled can be found in Chapter 11.

### **Shorelines within ~~Okanogan County~~Pateros**

This SMP recognizes that not only do different conditions exist within the cities and towns in Okanogan County, but that most of the cities and towns have developed comprehensive plans to guide development of their communities. ~~As a regional program,~~ this SMP is intended to provide the overall guidance and scientific foundation required for all shoreline areas of the County, while providing the city of Pateros with the ability to tailor the provisions and/or develop specific policies, regulations and shoreline environment designations compatible with local plans.

All of the general goals, policies and regulations herein are applicable to the all cities and towns in Okanogan County and are at least the minimum required for compliance with the Shoreline Management Act. ~~Each city and town may~~ Pateros has added to or refined the use specific goals, policies and regulations as applicable to their jurisdiction city, providing that the results comply with the SMA.

### **Permit exemptions**

The SMA exempts certain developments from the need to obtain a Substantial Development Permit (SDP). Activities exempted from the requirement to acquire a SDP must comply with all substantive policies and regulations of the local master program and be issued a written Shoreline Exemption Permit by the administrator of this SMP<sup>i</sup>. In general a SDP, is not required for the following uses within the shorelines of Pateros.

- Any project with a fair market value under \$5718 or amount amended by WAC 173.
- Single family residences
- Normal protective bulkheads for single family residences
- Normal maintenance and repair of existing structures
- Docks worth less than \$10,000 (fresh water)
- Normal farming activities including drainage structures such as irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels.
- Emergency construction needed to protect property
- Scientific investigation as it relates to a development project
- Watershed restoration or fish and wildlife improvement projects
- Operation and maintenance of any system of dikes, ditches, drains or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system.

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<sup>i</sup> - A complete list of all exempt uses is provided in Section 11.12B of this SMP and WAC 173-27-040.

## CHAPTER 2: DEFINITIONS

This chapter lists the official (legal) definitions of terms used in this SMP. As used in this SMP, unless the context requires otherwise, the following definitions and concepts apply:

- 2.01 “Act” means Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.
- 2.02 “Accessory Building or Use” means a subordinate building or use located on the same legal lot as the principal building or use.
- 2.03 “Accessory utility” means local transmission and collection lines, pipes, and conductors associated with water, sewer, gas, telephone, cable-TV, or similar utilities, or with irrigation systems, and other similar facilities intended to serve a development or an individual use, including access roads and appurtenant structures necessary to facilitate the utility use.
- 2.04 “Administrative Authority” shall, in the context of these regulations, mean the city of Pateros.
- 2.05 “Administrator” shall, in the context of this master program, mean the duly appointed representative of the city of Pateros.
- 2.06 “Advertising Sign” Any device, structure, fixture or placard that is visible from a public right-of-way or surrounding properties and which uses graphics, symbols or written copy for the purpose of advertising or identifying any establishment, product, goods or service.
- 2.07 “Agriculture” and “Agricultural Activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;
- 2.08 “Agricultural Equipment” and “Agricultural Facilities” includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains; (ii) Corridors and facilities for transporting personnel, livestock, and equipment to,

- from, and within agricultural lands; (iii) Farm residences and associated equipment, lands, and facilities; and (iv) Roadside stands and on-farm markets for marketing fruit or vegetables.
- 2.09 “Agricultural Land” means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation.
- 2.10 “Agricultural Products” includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;
- 2.11 “Aquaculture” means the culture or farming of food fish, shellfish, or other aquatic plants or animals. Aquaculture is an activity of statewide interest. It is a water-dependent use and, when consistent with control of pollution and prevention of damage to the environment and undertaken in conformance with the provisions of this SMP, is a preferred use of the water area.
- 2.12 “Animal feeding operation” or “AFO” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
- a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- 2.13 “Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.
- 2.14 “Appurtenance” means development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and/or the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed the threshold established in local SEPA or building regulations, whichever is less, and which does not involve placement of fill in any wetland, floodway, floodplain or waterward of the ordinary high water mark.
- 2.15 “Area of shallow flooding” is designated as AO, or AH Zone on the flood insurance rate map (FIRM). AO Zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.
- 2.16 “Area of special flood hazard” is the land in the floodplain within a community

- subject to a one percent or greater chance of flooding in any given year.  
Designation on maps always includes the letters A or V.
- 2.17 “Associated Wetlands” is synonymous with “wetlands” or “wetland areas”  
Wetlands that are in proximity to, lakes, rivers or streams that are subject to the SMA and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.
- 2.18 “Aquifer Recharge Area” Area with a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.
- 2.19 “Aquaculture” is the farming of aquatic organisms including fish, mollusks, crustaceans and aquatic plants. Farming implies some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators and so forth.
- 2.20 “Archaeological resource/site” means archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered, are located on Pateros shorelands and including, but not limited to, submerged and submersible lands and the bed of the rivers within the state’s jurisdiction, that contains archaeological objects. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter. “Significant” is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:
- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
  - b. That are associated with the lives of significant persons in our past; or
  - c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
  - d. That has yielded or may be likely to yield, information important in history or prehistory.
- 2.21 “Average Grade Level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly

- under the proposed building or structure; provided that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the ground elevations at the center of all exterior walls of the proposed building or structure.
- 2.22 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one hundred (100) year flood"). Designated on flood insurance rate maps by the letters A or V.
- 2.23 “Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.
- 2.24 “Bed and Breakfast” An owner occupied single family dwelling in which not more than two bedrooms are rented to the traveling public (tourists). For the purposes of this title, this use is not considered a commercial use. This use shall have the outward appearance of a single family residence and food service in accordance with WAC 246.215.180.
- 2.25 “Best Available Science” The 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, for when used within this SMP, the most current, accurate, and complete scientific and technical information available WAC 173-26-201(2)(a)
- 2.26 “Best management practices” means (BMP’s) means conservation practices or systems of practices and management measures that:
- a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment:
  - b. Minimize adverse impacts to surface water and ground water flow, circulation pattern, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats.
  - c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.
- 2.27 “Boating facilities” Developments and uses that support access to shoreline waters for purposes of boating.
- 2.28 “Boat garage” means indoor, over-water boat storage. Such as a garage or machine she located on or next to a pier, also a floating structure used to store one’s boat out of the elements.
- 2.29 “Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- 2.30 “Building” Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind and not including advertising signboards

- or fences.
- 2.31 “Buffer, Use” means an area that is contiguous to and protects a critical area that is required for the continued maintenance, functioning, and/or structural stability of a critical area.
- 2.32 “Buffer, Vegetation” means the vegetation area adjacent to a shoreline that separates and protects the shoreline aquatic area from adverse impacts associated with adjacent land uses.
- 2.33 “Buffer, Wetland” means the vegetation area adjacent to a wetland that separates and protects the wetland aquatic area from adverse impacts associated with adjacent land uses.
- 2.34 “Bulkhead” A structure erected generally parallel to and near the OHWM for the purpose of protecting adjacent uplands from waves or current action.
- 2.35 “Bulk storage” means non-portable storage of bulk products in fixed tanks.
- 2.36 “CAFO” Concentrated Agricultural Feeding Operation, as defined by the Code of Federal Regulations 122.23.
- 2.37 “Campgrounds” A development providing facilities for outdoor recreational activities, including structural improvements such as covered cooking areas, group facilities, self-contained travel trailer/motor home sites, tent sites, restroom and shower facilities, and laundry facilities for the convenience of temporary occupants. This definition includes camping clubs when developed in accordance with applicable state laws.
- 2.38 “Channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
- 2.39 “Clearing” The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.
- 2.40 “Commercial use” Facilities used or established to provide goods, merchandise or services for compensation or exchange, excluding facilities for the growth, production, or storage of agricultural products.
- 2.41 “Community boating facilities” including docks, piers, ramps, marinas, etc...are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized the facilities, then the multiple upland property owners of a residential development would also be considered community boating facilities.

- 2.42 “Community joint-use recreational dock” means a dock intended for the common use of the residents of adjoining parcels or subdivision, shore subdivision, or community located on adjacent uplands. A community joint-use recreational dock shall not be a commercial endeavor and shall not for the purpose of serving the public.
- 2.43 “Critical Areas” Critical Areas include the following areas and ecosystems, as designated by the city of Pateros: wetlands; areas with a critical recharging effect on aquifers used for potable water; aquatic, riparian, upland and wetland fish and wildlife habitat conservation areas; frequently flooded areas; channel migration zones; and geologically hazardous areas.
- 2.44 “Critical Areas Report” is a report prepared by a qualified professional required by the City that inventories and analyzes the development impacts of a proposed action on a critical area. Critical Area report requirements are found in Chapter 11 of this SMP.
- 2.45 “Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.
- 2.46 “Cumulative Impacts” means the impact on the environment resulting from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of who undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- 2.47 “Cumulative substantial damage” means flood-related damages sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.
- 2.48 “Density” An expression of the intensity of use of property, usually indicated in the following manner: For residential uses: Minimum acreage or square footage required for each residential unit; for non-residential uses: Maximum amount of use and/or floor area expressed as a percentage or fraction of the size of the lot.
- 2.49 “Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030(3)(d).) or located within the area of special flood hazard. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.
- 2.50 “Development regulations” means the controls placed on development or land uses by the city of Pateros, including, but not limited to, zoning ordinances,

- critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto.
- 2.51 “Dike” means an artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
- 2.52 “Dock” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.
- a. Private docks- over-water structures are constructed and utilized for private moorage by a single residential waterfront property owner; or an upland property owner adjacent to publicly owned shoreline where the public entity has authorized the placement of a private dock. Joint use docks - are constructed and utilized by two or more contiguous residential waterfront property owners. Joint use dock facilities may also serve one waterfront property owner and one or more contiguous upland property owners; or may consist of two or more upland property owners adjacent to publicly owned shoreline, where the public entity has authorized the placement of a joint use dock.
  - b. Community docks- are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the dock facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized dock facilities, the dock facilities for multiple upland property owners of a residential development would also be considered community dock facilities.
  - c. Public docks- are constructed and utilized for use by the general public, typically owned and managed by a public agency and may include a boat ramp.
- 2.53 “Dredge material disposal” means the disposal of material excavated waterward of the ordinary high watermark according to the DNR disposal procedures manual.
- 2.54 “Dredging” means the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or from wetlands.
- 2.55 “Dwelling, Multi-Family” means a building containing two or more dwelling units.

- 2.56 “Dwelling, Single-Family” means a detached building containing one dwelling unit.
- 2.57 “Dwelling unit” means a building or portion thereof designed exclusively for residential purposes on a permanent basis; to be used, rented, leased, or hired out to be occupied for living purposes having independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation. No motor home, travel trailer, tent trailer or other recreational vehicle shall be considered a dwelling unit.
- 2.58 “Ecological functions” or “shoreline functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201 (2)(c).
- 2.59 “Ecological restoration and/or enhancement” is an “intentional activity that initiates, accelerates, or intended to recover ecosystem functions with respect to its health, integrity and sustainability. The practice of ecological restoration and/or enhancement includes a wide scope of projects including, but not limited to: erosion control, reforestation, removal of non-native species and weeds, revegetation of disturbed areas, daylighting streams (e.g. culvert/pipe removal, bring an artificially underground stream to the surface), reintroduction of native species, as well as habitat and range improvement for targeted species.
- 2.60 “Ecologically intact” shorelines, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.
- 2.61 “Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
- 2.62 “Elevation certificate” means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.
- 2.63 “Elevated building” means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- 2.64 “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 this chapter. Emergency construction does not include

- development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- 2.65 “Emergency construction” is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii)).
- 2.66 “Exempt, substantial development” means any development of which the total cost or fair market value, whichever is higher, does not exceed ~~seven~~ ~~five~~ thousand ~~seven hundred eighteen~~ ~~forty-seven~~ dollars (~~\$75,047,718~~) or dollar value as amended by the State of Washington Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state, and any development which does meet the definition of substantial development contained herein. Note – exemption does not preclude compliance with the regulations contained herein, or provide an exemption from any other permit processes except as provided herein.
- 2.67 “Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.
- 2.68 “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 2.69 “Experimental aquaculture” means an aquaculture project that uses methods or technologies that are unprecedented or unproven in the State of Washington.
- 2.70 “Fair Market Value” of a development is the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, dumping or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such a value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitting project.
- 2.71 “Feasible” means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
  - b. The action provides a reasonable likelihood of achieving its intended purpose; and
  - c. The action does not physically preclude achieving the project's primary intended legal use. In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the local or tribal government reviewing the application may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.
- 2.72 “Feedlot” means an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, a confined area or structure for feeding, breeding or holding livestock for eventual sale or slaughter and in which animal waste accumulates faster than it can naturally dissipate without creating a potential for a health hazard, particularly with regard to surface and groundwater; but not including barns, pens or other structures used in a dairy operation or structures on farms holding livestock primarily during winter periods.
- 2.73 “Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
- 2.74 “Fish and Wildlife Habitat Conservation Areas” habitats of priority species, priority habitats, and habitats of local importance for fish and wildlife that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, movement corridors, and areas of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.
- 2.75 “Floats” means a detached, anchored structure that is free to rise and fall with water levels including any floating, anchored platform or similar structure, used for boat mooring, swimming or similar recreational activities that is not anchored or accessed directly from the shoreline.
- 2.76 “Floating homes” means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of towing.~~A structure designed and operated substantially as a permanently based over water residence. Floating homes are not vessels and typically lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi permanent anchorage/moorage facilities.~~

- 2.77 “Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. The overflow of inland or tidal waters; and/or
  - b. The unusual and rapid accumulation of runoff of surface waters from any source.
- 2.78 “Flood control works” means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.
- 2.79 “Floodplain” is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon the flood ordinance regulation maps of the local or tribal government with jurisdiction.
- 2.80 “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- 2.81 “Flood insurance study (FIS)” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.
- 2.82 “Floodplain management” means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.
- 2.83 “Floodway” means the area, as identified in a master program that has been established in federal emergency management agency (FEMA) flood insurance maps. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.~~means means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as identified on those maps that are established in federal emergency management agency flood insurance rate maps or floodway maps, when available (date of adoption).~~
- 2.84 “Frequently Flooded Area” means the floodplain, the future-flow floodplain, and those lands that provide important flood storage, conveyance and attenuation functions.
- 2.85 “Frontage” is the distance measured along the ordinary high-water mark.
- 2.86 “Future Flow Floodplain” means the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood

- flow at build out without any measurable increase in flood heights.
- 2.87 “Geologically Hazardous Areas” means:
- a. Any area designated as a Geologically Hazardous Area by the local government with jurisdiction; or
  - b. Any other area that is not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns, because of the area’s susceptibility to erosion, sliding, earthquake, or other geological events, including but not limited to:
    1. Channel migration zones;
    2. Erosion hazard areas: areas that contain soil types, according to Soil Conservation Service's Soil Classification System, that may experience severe to very severe erosion;
    3. Landslide hazard areas: areas that have the potential of risk of mass movement resulting from a combination of geologic, topographic, and hydrologic factors;
    4. Seismic hazard areas: areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction;
    5. Mine hazard areas: areas that are directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts;
    6. Volcanic hazard areas: areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mud flows, or related flooding resulting from volcanic activity.
- 2.88 “Geotechnical report” or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists-who have professional expertise about the regional and local shoreline geology and processes.
- 2.89 “Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
- 2.90 “Gravel Pit” Land from which sand, gravel or quarried rock is extracted, but does

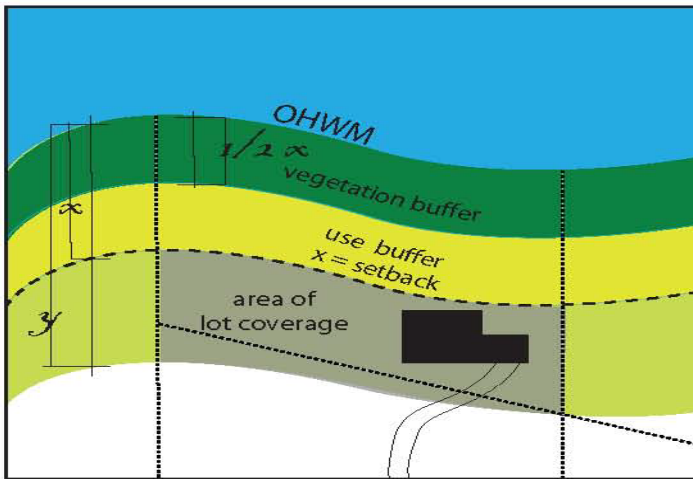
- not include the extraction of metals, minerals or fossil fuels. (See Mining)
- 2.91 “Guest House” For the purposes of this SMP, a small living unit accompanying the main residence permitted on a lot of minimum size or larger for the purpose of housing guests, friends, and relatives and having its own kitchen and toilet facilities. The total floor area of such a unit shall be a minimum of 500 square feet and not exceed 50% of the total area of the main residence. The main residence shall be occupied by the property owner.
- 2.92 “Guidelines” means the State of Washington’s adopted Shoreline Master Program Guidelines (WAC 173-26, as amended).
- 2.93 “Habitat” means the specific area or environment in which a particular type of plant or animal lives.
- 2.94 “Hard shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion including but not limited to, bulkheads, rip-rap, jetties, groins, breakwaters, and stone reinforcement.
- 2.95 “Height, building” is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, That temporary construction equipment is excluded in this calculation .
- 2.96 “Historic Site” means those sites that are eligible to be listed or are listed on the Washington Heritage Register, National Register of Historic Places, or any locally developed historic registry formally adopted by the responsible local government.
- 2.97 “Hotels and Motels” Establishments for housing the traveling public on an overnight or short-term basis. Accessory restaurant and recreational facilities are usually available to non-guests as well as guests.
- 2.98 “Houseboat” A vessel, principally used as an over water residence. Houseboats are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring and the presence of adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an over-water residence means occupancy in a single location, for a period exceeding 30 days in any one calendar year. This definition includes liveaboard vessels.
- 2.99 “Increased cost of compliance” means a flood insurance claim payment up to thirty thousand dollars (\$30,000) directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of "substantial damage" or as a result of a "cumulative substantial damage." (More information can be found in FEMA ICC Manual 301.)
- 2.100 “Industrial use” means a use including manufacturing, processing, warehousing,

- storage, distribution, shipping and other related uses.
- 2.84 “Inns, Lodges and Guest Ranches” Establishments for housing and providing either organized entertainment (both active and passive) or recreational opportunities for stays, generally, several nights in duration. This type of facility either provides all recreational opportunities on-site or as part of an organized or duly licensed and/or permitted recreational activity on public or private lands in the vicinity of the inn, lodge or guest ranch.
- 2.85 “In-stream Structure” means a structure placed by humans within a stream or river waterward of the ordinary high-water mark 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.
- 2.86 “Landfill” means a disposal site or part of a site at which waste is placed in or on land and which is not a landspreading disposal facility, or as otherwise defined by the city of Pateros. The most stringent definition shall apply.
- 2.87 “Land Use, High Impact” “High Intensity Land Use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than 1 unit/acre), high intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), and hobby farms.
- 2.88 “Land Use, Low Impact” means land use that includes the following uses or activities, forestry (cutting of trees only), low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.), unpaved trails, utility corridor without a maintenance road and little or no vegetation management.
- 2.89 “Land Use Medium Impact” means land use that includes the following uses or activities, residential (1 unit/acre or less), moderate-intensity open space (parks with biking, jogging, etc.), conversion to moderate-intensity agriculture (orchards, hay fields, etc.), paved trails, building of logging roads, utility corridor or right-of-way shared by several utilities and including access/maintenance road.
- 2.90 “Large Woody Debris” or “LWD” means all wood greater than four inches (4”) in diameter naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.
- 2.91 “Litter container” means a container provided on public or private property for temporary disposal of wastepaper, used beverage or food containers, and other small articles of rubbish, trash, or garbage by users of the site. Every litter container shall be closed with a well-fitting lid or designed to reasonably prevent its contents from becoming litter.
- 2.92 “Local Government” means any county, incorporated city or town or Tribal corporation which contains within its boundaries any lands or waters subject to

the Shoreline Management Act.

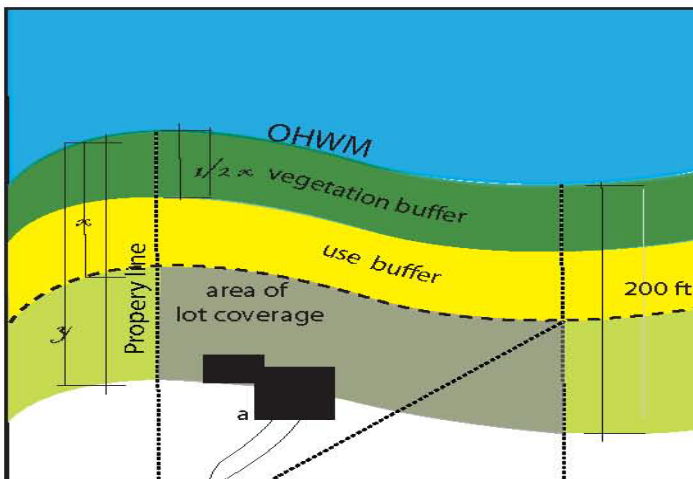
2.93 “Lot Coverage, shoreline” That portion of a lot which, when viewed directly from above, would be covered by building(s) and/or structure(s) and/or impervious surfaces. The portion of the lot covered by the roof projection or eaves beyond the wall of the building(s) and/or structure(s), is not included as lot coverage.

2.93.1



**Lot Coverage regulations apply to the area landward of the setback**

Generic example of lot wholly within shoreline with setback, use buffer and vegetation buffer lines, and area where lot coverage standards apply



a. Example of lot partially within shoreline depicting: building setback, use buffer, vegetation buffer, and area where lot coverage standards apply

2.94 “Lot Width” The horizontal distance between the side lot lines measured at right angles to the line comprising the depth of the lot at a point midway between the front lot line and the rear lot line.

2.95 “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this SMP (i.e., provided there are adequate flood ventilation

- openings).
- 2.96 “Manure lagoon” means a waste treatment impoundment, in which manure is mixed with sufficient water to provide a high degree of dilution for the primary purpose of reducing pollution potential through biological activity.
- 2.97 “May” means an action is acceptable, provided it conforms to the provisions of this SMP.
- 2.98 “Must” means an action is required.
- 2.99 “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- 2.100 “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 2.101 “Manufacturing, Heavy” Industrial enterprises and activities which possess potential nuisance or hazard components or place exceptional demands upon public facilities and services. Such facilities generally involve the manufacturing, assembly, fabrication and processing, bulk handling, storage, warehousing, and heavy trucking activity and normally require sites of larger size to accommodate these uses.
- 2.102 “Manufacturing, Light” A manufacturing use, in which goods are produced without using heavy machinery such as, machine loaders, foundry machinery, metal, presses, etc., and without chemically processing materials. Light manufacturing activities include but are not limited to the following activities:
- a. Manufacture, assembly, finishing, and/or packaging of small items from component parts. Examples include but are not limited to pottery, clothing, assembly of clocks, electrical appliances, or medical equipment.
  - b. Production of items made from materials derived from plants or animals, including but not limited to leather, pre-milled wood, paper, wool or cork; or from textiles, semi-precious or precious metals or stones, or plastics.
  - c. Production or bottling of beverages for human consumption, including but not limited to beer, wine and soft drinks.
- 2.103 “Marina” means a facility which provides boat launching, storage, supplies and services for small pleasure craft. There are two basic types of Marinas; open type construction (floating breakwater and/or open pile work) and solid type construction (bulkhead and/or landfill).
- 2.104 “Mineral extraction” means the removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject

- to the provisions of this Program.
- 2.105 “Mineral Resource Lands” means lands designated as mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.106 “Mineral prospecting” means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment.
- 2.107 “Mining” The act of extracting from the earth minerals and/or ores via open pit, shaft, leaching, hydraulic, sand and gravel removal or other methods, except dredging. Note that mining activities are subject to zoning regulation and approval processes; however, prospecting and exploration activities that are conducted with minimal disturbance of the subject property are not considered mining and are not restricted by zoning. Surface mining operations are also regulated by Department of Natural Resources.
- 2.108 “Mitigation” means avoiding, minimizing, rectifying, reducing, compensating for, and/or monitoring an impact as defined in Washington State’s SMP rules, 173-26-201 (2)(e) WAC.
- 2.109 “Mitigation plan” shall include a written report or authorization (by a state or federal agency) prepared by a qualified professional identifying environmental goals and objectives of the compensation proposed and including:
- a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
  - b. A review of the most current, accurate, and complete scientific and technical information supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed; and
  - c. An analysis of the likelihood of success of the compensation project.
  - d. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Title have been met.
  - e. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as: The proposed construction sequence, timing, and duration; Grading and excavation details; Erosion and sediment control features; A planting plan specifying plant species, quantities, locations, size, spacing, and density; and Measures to protect and maintain plants until established. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to

show construction techniques or anticipated final outcome.

- 2.110 “Mixed use development” means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design. Mixed use developments must include a water dependent use(s) and provide a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration, except as provided for in WAC 173-26-241(3)(d).
- 2.111 “Monitoring” means evaluating the impacts of development on the environment (which may include biology, geology, hydrology, hydraulics, and other factors related to safety and shoreline ecological function) and determining how well any required mitigation measures are functioning through the monitoring period. Monitoring may also include collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features; and does also include gathering baseline data.
- 2.112 “Multi-family dwelling (residence)” means a single building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other in separate dwelling units on one lot of record and, for the purpose of this code, includes triplexes, fourplexes, apartment buildings, and residential condominiums.
- 2.113 “Municipal uses” are those in support of local government functions and services. For the purposes of this SMP, recreational uses and utility facilities are excluded.
- 2.114 “Natural Resource Lands” means lands designated as agricultural lands, forest lands, or mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.115 “New construction” means structures for which the "start of construction" commenced on or after the effective date of this master program.
- 2.116 “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.
- 2.117 “Nonconforming Structure, shoreline” A existing structure built in conformance with SMP requirements in place at the time of construction or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any amendment thereto.
- 2.118 “Nonconforming Use” A existing use allowed in conformance with SMP requirements in place at the time of initiation or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any amendment thereto.

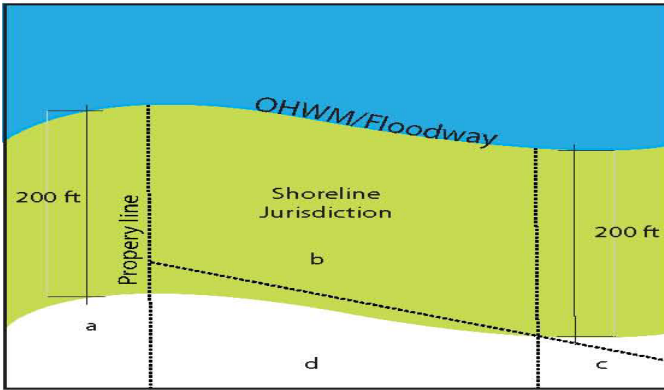
- 2.119 “Non-structural shoreline stabilization” includes building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization, vegetation stabilization and bioengineered stabilization.
- 2.120 “Non-water-oriented use” means a use that is not a water-dependent, water-related, or water-enjoyment use.
- 2.121 “Office of Financial Management” means the Office of Financial Management of the State of Washington.
- 2.122 “Official Map of Shorelines” means all maps adopted as part of the Master Program delineating the geographic boundaries of all designated water bodies of Okanogan County, the incorporated municipalities, and the Indian Reservation therein, coming under the jurisdiction of the Shoreline Management Act of 1971.
- 2.123 “Open Space, Common” means land within or related to a development, not individually owned (undivided interest), which remains undeveloped (except for approved trails and accessory structures approved by the Dept. of Fish and Wildlife) and that is dedicated to one or more of the following purpose: Historical/architectural preservation and/or wildlife habitat and/or recreation.
- 2.124 “Open space, Individual Ownership” Land within or related to a development owned individually, which remains undeveloped (except for trails) and that is dedicated for use in the development and is retained or restored to its native state or used for agricultural or recreational purposes, e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/ architectural preservation significance or used as designated wildlife open space.
- 2.125 “Open Space Public” means any land which has been acquired, set aside, dedicated, designated or reserved for general public use or enjoyment.
- 2.126 “Open Space, Conservation” means land retained in an open or unimproved condition, which has been set aside, dedicated, designated, or reserved for fish and wildlife preservation or enhancement purposes. Mechanisms for preservation of Conservation Open Space include but are not limited to: Subdivision, Planned Development (PD), or Planned Destination Resort (PDR) process. Lands within this type of an open space dedication may include portions and combinations of forest, agricultural and grazing lands, priority fish and wildlife habitats, on-site watersheds, 100 year floodplains, county shorelines or shorelines of state-wide significance and riparian areas and wetlands. Land so designated shall not include areas of human impact and shall contain no structures or impervious surfaces other than those which are approved by the Administrator e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/architectural preservation significance or used as designated Conservation open space.
- 2.127 “Ordinary high water mark” on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in

- all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- 2.128 “Over-water structures” Any structure located waterward of the OHWM. Common examples include, but are not limited to, residential piers, marinas, and bridges.
- 2.129 “Permit” means any form of permission required under the act or this shoreline master program prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions.
- 2.130 “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.
- 2.131 “Placer mining” means the mining (by panning or dredging) of alluvial (waterborne) or glacial deposits of precious metals or minerals, usually in stream beds or valleys adjacent to uplands rich in these minerals.
- 2.132 “Primary utilities” are transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants.
- 2.133 “Priority Habitat” means a habitat type with unique or significant value to one or more species and designated as Priority Habitat by the Washington Department of Fish and Wildlife.
- 2.134 “Priority Species” means a species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels and designated as a Priority Species by the Washington Department of Fish and Wildlife.
- 2.135 “Provisions” means policies, regulations, standards, guideline criteria or environment designations.
- 2.136 “Public Access” means the public's right to get to and use the State's public waters the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic roads and overlooks, viewing towers and other public sites or facilities.

- 2.137 “Public Trust Doctrine” means a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state.
- 2.138 “Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional will have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and have at least two years of related work experience. A geologist must have a state license.
- 2.139 “Recreation, low-intensity” means recreation that does not require developed facilities other than unpaved trails and can be accommodated without change to the area or resource other than development of trails and placement of litter containers and directional and interpretive signs. Examples are hiking, shore fishing, and bicycling.
- 2.140 “Recreational development” means the modification of the natural or existing environment to accommodate recreation. This includes clearing land, earth modifications, structures and other facilities such as parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, wildlife enhancement (wildlife ponds are considered excavation), and other low intensity use outdoor recreation areas.
- 2.141 “Recreational uses” Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access are considered nonwater-oriented. For example, a recreation uses solely offering indoor activities would be considered nonwater-oriented.
- 2.142 “Recreational vehicle” means a vehicle:
- a. Built on a single chassis;
  - b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light-duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 2.143 “Recreational Vehicle (RV) Park” A tract of land developed with individual sites

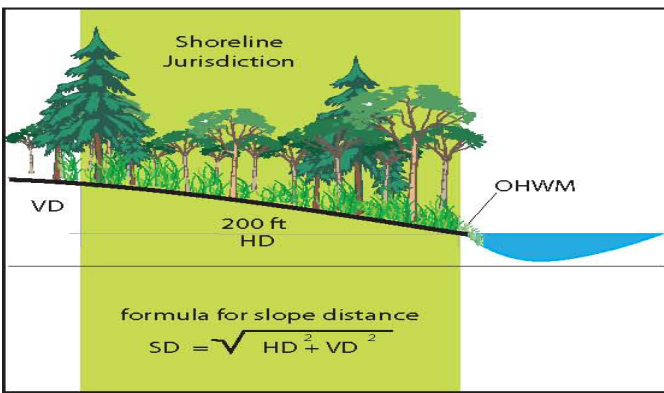
- for rent and containing roads and utilities to accommodate recreational vehicles or tent campers for vacation or other similar short stay purposes.
- 2.144 “Residential development” means:
- a. Exempt Single Family Residential - Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family,
  - b. Non-exempt single family dwellings (e.g. seasonal or year round rentals), development of a residential single family unit not lived in by owner or his/her own family
  - c. Multi-family Residential – Can include duplex, 3 or more residential units, apartments, townhomes and condominiums
- 2.145 “Responsible Official” shall mean the Mayor or City Clerk of city of Pateros or their designee.
- 2.146 “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.
- 2.147 “Riparian Area” means those transitional areas between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral (with existing riparian vegetation) streams, lakes, and estuarine-marine shorelines.
- 2.148 “Riprap” means broken stone or other hardening material placed along the shoreline of a lake, river, or stream to prevent erosion or provide stability.
- 2.149 “Sanitary landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.
- 2.150 “Seasonal” A temporary use the duration of which is related to an identifiable climatic, cultural, or recreational period. (i.e., summer, winter, fall, spring, Christmas, ski season).
- 2.151 “Setback” means the required minimum distance between the Ordinary High Water Mark and the outer-most vertical plane of any building, structure, device, fence, swimming pool, landscaped or graded area, or other improvement causing a disturbance to the natural landscape.
- 2.152 “Shorelands or shoreland areas” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary

- high-water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter.
- 2.153 “Shoreline frontage” means the land measured in linear feet that lies adjacent to the lake, river, or stream subject to this program.
- 2.154 “Shoreline ecological function” see “Ecological function”
- 2.155 “Shoreline Jurisdiction” or “Shoreline Area” means all "shorelines of the state" as defined in RCW 90.58.030.
- 2.156 “Shoreline Master Program” or “SMP” means the comprehensive use plan for the shoreline area of a jurisdiction subject to this title, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.;

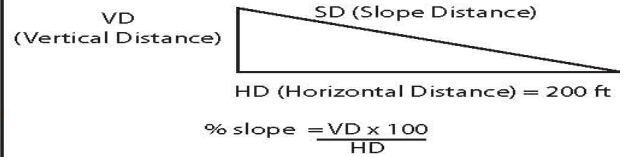


**Shoreline Jurisdiction**

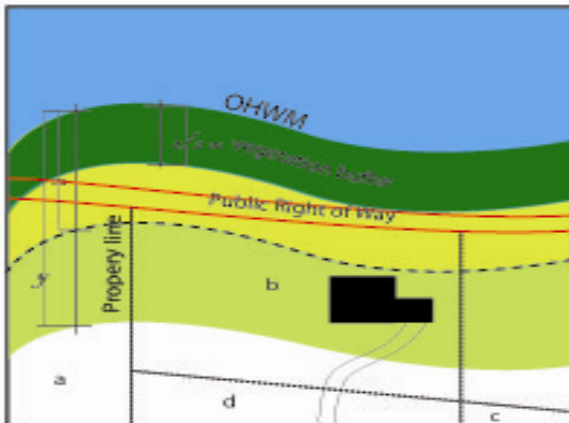
- a & d. Parcels partially within Shoreline Jurisdiction
- b. Parcel wholly within Shoreline Jurisdiction
- c. Parcel outside Shoreline Jurisdiction



Shoreline jurisdiction as measured on the horizontal from the ordinary high watermark



slope distance is the measurement on the ground where the shoreline jurisdiction, setback and buffer are established



Development of lot b is not subject to buffer standards if it is physically separated from use buffer by a developed public right-of-way which is greater than the buffer width

- 2.150 “Shoreline Modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
- 2.151 “Shoreline permit” means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by the city of Pateros pursuant to RCW 90.58.

- 2.152 “Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except
- a. Shorelines of statewide significance;
  - b. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;
- 2.153 “Shorelines of the State” are the total of all "shorelines" and "shorelines of state-wide significance" within the state
- 2.154 “Shorelines of State-wide Significance” in Okanogan County means:
- a. Those lakes, whether natural, artificial or a combination thereof with a surface acreage of one thousand acres or more measured from the ordinary high-water mark.
  - b. Those natural rivers or segments thereof that are downstream of a point where the mean annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers downstream from the first three hundred square miles of drainage area, whichever is longer.
  - c. Those wetlands associated with such water bodies.
- 2.155 “Shoreline of Tribal Significance” means *any Shoreline Area within the Colville Indian Reservation.*
- 2.156 “Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership, including any remaining portions of the parent parcel for any lot created through use of the applicable local subdivision code or ordinance.
- 2.157 “Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- 2.158 “Soft shoreline stabilization” means shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment.
- 2.159 “Solid Waste” means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not

- limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.
- 2.160 “Special Event” Any event (excluding those events allowed through the festival permitting process) that happens for more than three (3) consecutive days per event and no more than twice (2) a year.
- 2.161 “Special Event Camping” Any ten (10) or more recreational vehicles, tents, or temporary structures designed for temporary habitation, or any combination thereof, limited to the duration of the special event (whether related to a special event or not) and one (1) week before and one (1) week after.
- 2.162 “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.163 “Structural shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion, examples include, bulkheads, concrete walls, rip-rap, jetties, groins, breakwaters, stone reinforcement.
- 2.164 “Structure” Anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences or standard roof mounted antennas.
- 2.165 “Subdivision, Long” is the division and redivision of land into five (5) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, as further defined by the municipal or tribal government with jurisdiction.
- 2.166 “Substantial accessory use facilities” Substantial accessory including but not limited to rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas associated with recreational development.
- 2.167 “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would

equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

2.168 “Substantial development” shall mean any development of which the total cost or fair market value exceeds ~~seven~~ forty-seven thousand ~~seven hundred eighteen~~ seventy-five dollars (\$~~75,047~~75,047~~18~~) or dollar value as amended by the State of Washington Office of Financial Management,<sup>1</sup> or any development which materially interferes with the normal public use of the water or shorelines of the state.<sup>1</sup> ~~The dollar threshold established in this subsection (3)(c) 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.~~ The uses and activities listed below shall not be considered substantial developments for the purpose of this chapter. All development, including the uses and activities listed below, is subject to Tribal Historic and Cultural Office regulations in accordance with the Tribal Cultural Artifacts Code.

- a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
- b. Construction of the normal protective bulkhead common to single family residences;
- c. Emergency construction necessary to protect property from damage by the elements;
- d. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock

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<sup>1</sup> The dollar threshold established in this subsection (3)(c) 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.

hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

- e. Construction or modification of navigational aids such as channel markers and anchor buoys;
- f. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
- g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
- h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
- i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;
- k. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
  - 1. The activity does not interfere with the normal public use of the surface waters;
  - 2. 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;
  - 3. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

4. 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; and
  5. The activity is not subject to the permit requirements of RCW 90.58.550;
- l. The process of removing or controlling an aquatic noxious weed, 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 the department jointly with other state agencies under chapter 43.21C RCW.
- m. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with disabilities act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

2.169 “Substantial improvement” means:

- a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
  1. Before the improvement or repair is started; or
  2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- b. The term can exclude:
  1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

2.170 “Substantially degrade” means cause significant ecological impact.

2.171 “Temporary” means having a specific, short-term duration. (See Seasonal).

2.172 “Temporary sign” means a sign not intended to be permanently installed.

2.173 “Temporary Use” means a use that is limited in scope, duration, and frequency.

2.174 “Upland”, when used as an adjective, means outside of the shoreline area.

2.175 “Uplands” means those lands outside of the shoreline area and not under shoreline jurisdiction.

2.176 “Urban Growth Areas” or “Future Service Area” means a regional boundary, set

- in an attempt to control urban sprawl by encouraging that the area inside the boundary be used for higher density urban development and the area outside is used for lower density development. “Use” means the purpose for which land or a structure is primarily designed, arranged or intended, or for which it is primarily occupied or maintained.
- 2.177 “Variance” An adjustment in the application of the bulk, height and setback regulations of the shoreline master program to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the shoreline regulations of privileges commonly enjoyed by other properties in the same vicinity and shoreline designation. A variance shall be limited to only that adjustment necessary to remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same restrictions. Economic hardship is not grounds for a variance.
- 2.178 “Vegetation conservation” includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control, and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.
- 2.179 “Visual public access” see public access.
- 2.180 “Wetlands” means areas that are inundated or saturated by surface water 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.
- 2.181 “Water-dependent use” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include marinas, water intake systems and sewer outfalls.
- 2.182 “Water-enjoyment use” means a recreational or similar use facilitating public access to the shoreline as a primary character 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 character of use and which, through location, design and

operation assures the public's ability to enjoy 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 foster enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed-use commercial; PROVIDED that such uses conform to the above water-enjoyment requirements and the provisions of the Master Program.

- 2.183 "Water-oriented use" means any one or combination of water-dependent, water-related or water-enjoyment uses.
- 2.184 "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
- 2.185 "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but economic viability is dependent on a waterfront location because:
- a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or;
  - b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.
- 2.186 "Woody Debris" means all wood naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.

Words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is mandatory and not permissive.

Definitions for terms requiring definitions not found herein shall be determined from the following sources, and if a conflict should arise between sources, such definition shall be established in the following priority:

- 1) RCW 90.58, WAC 173-26, WAC 173-27, WAC 173-22
- 2) Black's Law Dictionary by Henry Campbell Black, 3rd Edition, Publisher's Editorial Staff, St. Paul, West Publishing Company 1933, and subsequent amendments thereto.

- 3) Webster's New Collegiate Dictionary, G. & C. Merriam Company, Springfield, Massachusetts, U.S.A., and subsequent amendments thereto.

## CHAPTER 3:

### Public Participation

The ~~City's original update of is Regional-the~~ SMP ~~update~~ began in 2006 as a cooperative inter-governmental process between Okanogan County and incorporated municipalities therein. The process, funded with grants from the Department of Ecology, included the formation of a Shoreline Advisory Group (SAG)<sup>1</sup>, a Technical Advisory Group (TAG)<sup>2</sup> and a team of consultants<sup>3</sup> who provided the facilitation, planning and scientific analysis required for preparation of a draft Regional SMP. The draft, including definitions, inventory and characterization, goals and policies, shoreline designations, regulations and cumulative impact analysis of the shorelands was done on a County wide scale.

Okanogan County released a preliminary draft SMP for the formal public review process in September 2009. The draft document contained comments from the Department of Ecology and was the subject of public hearings before the Okanogan County Planning Commission during the Fall of 2009. Through the public review process the County received written comments from the WDNR, WDFW, Colville Tribes, a land use attorney and several private citizens in addition to the hours of testimony before the Planning Commission.

The SMP is only part of an entire package of land use plans and regulations the County is updating with no formal timeline for releasing a revised draft that addresses comments received during the public review process. Because of this and the June 2010 deadline for adoption, eight cities and towns joined together to develop ~~this an~~ Okanogan County Cities and Towns Regional Shoreline Master Program.

A process to tailor and adopt the SMP ~~is to be done~~ was completed by each respective jurisdiction and incorporated as part of their comprehensive plan. ~~Pateros its adopted SMP in May 2012.~~

The current process to complete the required periodic update of the SMP began in the spring of 2022 with the City's Planning Agency acting as the shoreline advisory group.

#### ***3.01 Statutory Requirements***

The Shoreline Management Act, RCW 90.58.130 requires that local governments make reasonable efforts to inform the people of the state about the shoreline management program and actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs. The act also requires that the local government encourage

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<sup>1</sup> The SAG consisted of representatives from the County, each city or town, Colville Tribes, resource agencies (state and federal), and six stakeholder groups: agricultural, resources, business, recreation, homeowners, conservation and environment.

<sup>2</sup> The TAG consisted of planning or building staff from the County, each city or town, Colville Tribes, Douglas PUD, U.S. Forest Service, WDNR, WDFW and Ecology.

<sup>3</sup> The consultant team consisted of Highlands Associates, responsible for the planning portion of the project, and ENTRIX, responsible for facilitation and the science portion of the project.

participation by all agencies of federal, state, and local government, including municipal and public corporations, having interest or responsibilities relating to the shorelines of the state. The WAC 173-26-090, 173-26-100, and 173-26-201(3)(b), offers additional guidance that local governments consult with and solicit comments from all persons, groups, agencies, and tribes interested or with jurisdiction or expertise in shorelines. Conduct at least one public hearing to consider draft proposal and publish the notice of the hearing in the official county newspaper and comply with the State Environmental Policy Act.

### ***3.02 Shoreline Advisory Group (SAG)***

~~The development of the~~As noted, the City’s Planning Agency is serving the role as the Shoreline Stakeholders Advisory Group and consists of the contract planner, City Administrator, City Clerk, two council members and the Mayor. ~~consisted of a representative of Okanogan County, and of each city and town, a representative from the Colville Confederated Tribe, a representative from each of the watershed planning units in the County, a representative of each of the following interest groups: agriculture, natural resources, business and recreation, conservation and the environment.~~The role of the SAG members is to review draft documents and guide staff and consultants in developing an SMP that will be acceptable to stakeholders as well as meeting the statutory requirements of the County, cities, and towns.

### ***3.03 Technical Advisory Group (TAG)***

Agencies including the Department of Fish and Wildlife, Department of Natural Resources, the Methow Conservancy, and the Okanogan Conservancy, Bureau of Reclamation, and the Department of Ecology attended meetings to help in the development of environment designations, and regulations. The TAG along with the Methow Restoration Council and the Okanogan Restoration Council provided valuable input on the results of the inventory and analysis in development of the original SMP. All of the agencies and area organizations were ~~invited to the TAG~~notified of -meetings throughout the process.

### ***3.04 Outreach***

~~Okanogan County~~Pateros has a website dedicated to the news and information for the Shoreline Master Program Periodic Update. As the draft documents were updated they were ~~not only emailed to the SAG and TAG but~~ were also updated on the website. Meeting notes from the SAG were also placed on the website. All of the project maps could be found on the website. ~~A newsletter was periodically distributed to the SAG and TAG and posted on the website.~~ Briefings were held with the city ~~and town councils, and the Okanogan County Planning Commission.~~

### ***3.05 ~~City and Town~~ Public Process***

During development of the existing SMP, the Pateros Planning Commission acted as the Shoreline Advisory Committee for the local review effort along with the City Council. The Commission held public meetings on May 17 and June 14, 2010 and concluded their review with a Public Hearing on July 12, 2010.

The City Council received updates on the update process beginning in January 2010 with the SMP an agenda item for their public meeting on May 17 and a Public Hearing on July 19.

For this periodic update, the Planning Agency served as the SAG and generally followed a Public Participation Plan which is included below.

### ***3.06 Period Update Public Participation Plan***

#### **Project Description**

Pateros is conducting a periodic review of its Shoreline Master Program (SMP) and is seeking to engage with the public and stakeholders for input and comments. The SMP helps our community plan for the future, balancing shoreline development with environmental protection, and provide for access to public shores and waters. The City wants to know what YOU value about shorelines and any issues YOU would like the SMP to address.

#### **What is the SMP?**

The SMP is a tool to plan and regulate the use of Washington shorelines. The SMPs are local land use policies and regulations that guide the use of Washington shorelines, public and private. The SMP's aim is to protect the shoreline for future generations, provide for public access to public waters and shores, and plan for shoreline use. The City's SMP includes our community's goals, policies, regulations, and programs focused on development, conservation, use, and restoration of our shorelines.

#### **Why Do We Care About Shoreline Management?**

The Shoreline Management Act (SMA) is intended to prevent inherent harm in developing Washington's shorelines. The SMA requires all counties and most cities and towns with shorelines to develop and implement a SMP.

#### **What is a Periodic Review?**

The Periodic review is meant to look at what has changed in the community and in the rules and bring our SMP, from September 2012, up to date. It is required every eight years, under RCW 90.58.080(4) to make sure the City's SMP is current and complies with the requirements of the SMA. The Periodic review requires this public participation plan.

### **Why Is Public Participation Important?**

Since public use and enjoyment is the primary purpose of the SMA, the public needs an opportunity to participate. A Public Participation Plan (Plan) is required to describe how the City will encourage early and continuous public participation throughout the process of reviewing the SMP. This Plan describes the steps Pateros will take to provide opportunities for public engagement and public comment.<sup>4</sup> This plan is a working document and will be adjusted as needed to provide for the greatest and broadest public participation.

### **Public Participation Goals**

- Provide the public, all generations, including school age children, with timely information, an understanding of the process, and multiple opportunities to review and comment on proposed amendments to the SMP. Provide translated materials.
- Actively solicit information from citizens, property owners, and stakeholders about their concerns, questions and priorities for the process.
- Encourage the public to informally review and comment on proposed changes to the SMP throughout the process and provide those comments to decision makers.
- Provide online workshops, meetings and hearings for both informal and formal public input at project milestones prior to decision-making by local officials.
- Consult and consider recommendations from neighboring jurisdictions, federal and state agencies, Douglas County PUD and Native American tribes.

Following is a general timeline that includes anticipated public participation opportunities. An up-to-date timeline will be posted and maintained on the City’s website: <https://www.pateros.com/>

#### **SMP Periodic Review**

#### **Tasks**

#### **Timelines and Process**

#### **PROJECT OVERVIEW AND INITIATE PUBLIC PARTICIPATION**

**May 2022 – July 2022**

**July 18, 2022 PA meeting**

- SMP Update Power point
- Review public participation plan
- Announce launch of website and survey
- Engage with public and stakeholders

<sup>4</sup>This plan is in addition to any other minimum requirements for public participation required by Pateros Municipal Code.

**PERIODIC REVIEW CHECKLIST**  
**July – September 2022**

**September 2022 PA Meeting**

- Review periodic update checklist
- Engage with public and stakeholders

**DRAFT UPDATED MASTER PROGRAM**  
**September – October 2022**

**October 2022 PC Meeting**

- Complete draft SMP
- Review draft code amendments
- Online open house refresh with draft code amendments
- Initiate public review and comment period

**PUBLIC REVIEW PROCESS**  
**November 2022 - December 2023**

**December 2022 PA Meeting**

- Public hearing
- Revisit and revise based on comments
- Planning Commission Public Hearing
- Engage with public and stakeholders
- Recommendation to City Council

**COUNCIL APPROVAL**  
**February 2023**

**March 14, 2023**

- Final draft SMP
- City Council Public hearing

**STATE APPROVAL & ADOPTION**  
**March – April 2023**

**April, 2023**

- Submit draft amendments and checklist to Ecology for review
- Revise documents as needed
- Approval and adoption
- Submit final draft and checklist to Ecology for final determination

**Opportunities for Community Input - Outreach**

Pateros is committed to providing multiple opportunities for community input throughout the process. The city will use a variety of outreach approaches to inform the community and encourage their participation, including the following:

<b><u>Website</u></b>	<u>The City's website will include an SMP webpage where interested parties can access status updates, draft documents, official notices, links to online workshops, meetings and hearings, minutes and other project information. The webpage, expected to go live on May 1, 2022, will be the primary repository of all information related to the SMP process. The page will include who to contact for more information and an email link for questions and comments.</u>
<b><u>Survey</u></b>	<u>A community survey will be conducted during the month of May 2022 to solicit specific feedback from interested parties and results will be posted on the webpage.</u>
<b><u>Open House</u></b>	<u>Pateros will initiate the SMP process with an online community open house on July 18, 2022. Public comments received during the Open House will be posted on the webpage.</u>
<b><u>Mailing Lists</u></b>	<u>An email list of interested parties will be created, advertised and maintained by the City. The list will be used to notify interested parties regarding SMP progress and participation opportunities. Interested parties will be added to the list by contacting the Clerk's Office.</u>
<b><u>Comments</u></b>	<u>Interested parties will be encouraged to provide comments to Pateros by letter, email and/or participation in online meetings. All comments will be forwarded to the Planning Agency and Pateros City Council. The webpage will be the central repository for information under consideration. Documents will be available for review on the City's webpage and at City Hall with advance notice and copies will be provided at the established copying cost.</u>
<b><u>Planning Agency</u></b>	<u>The Planning Agency will be the primary forum for detailed review and recommendations to the Pateros City Council. Interested parties are encouraged to attend online workshops, meetings and hearings and provide comments during Planning Agency review and deliberations and/or City Council workshops and public hearings. Official notices will be published as established in City policy.</u>
<b><u>City Council</u></b>	<u>The City Council will receive monthly updates on the update process, proposed revisions and timelines.</u>
<b><u>News Media</u></b>	<u>The local news media will be kept up-to-date on the process and receive copies of all official notices.</u>
<b><u>Field Trips</u></b>	<u>Interested parties, such as seniors, community centers, Tribes, recreationalists, and schools will be invited on sponsor led field trips. Provide comment forms for instant feedback.</u>

<b><u>Festivals, Fairs, Farmers Markets</u></b>	<u>Set up information tables or booths to distribute information and speak with community. Provide comment forms for instant feedback.</u>
<b><u>Social Media</u></b>	<u>Engage with community via blog, Facebook, Instagram, Twitter.</u>
<b><u>Workshops/Presentations</u></b>	<u>As requested, make presentations to stakeholder groups, community organizations, and neighborhood associations. Provide comment forms for instant feedback.</u>

**Stakeholders**

Pateros will engage, at a minimum, with the following stakeholders:

<b><u>Shoreline Property Owners</u></b>	<b><u>Individual Shoreline Users</u></b>
<u>Home and residential property owners</u> <u>Homeowner associations</u> <u>Business and industry owners</u> <u>Railroads</u> <u>Public property owners</u> <u>Public and private utilities</u> <u>Douglas County PUD</u>	<u>Shoreline area residents</u> <u>Shoreline users – those who fish, swim, paddle, boat and walk</u> <u>Residents generally interested in local planning</u> <u>Non-English speaking populations tourists and visitors</u>
<b><u>Shoreline User Groups</u></b>	<b><u>Local and Regional Organizations</u></b>
<u>Boating and paddling organizations</u> <u>Swimming clubs</u> <u>Fishing groups</u> <u>Beach watcher organizations</u> <u>Research, academic and educational institutions</u> <u>Sporting groups</u>	<u>Business groups such as the Chamber of Commerce</u> <u>Environmental organizations</u> <u>Conservation organizations</u> <u>Restoration and enhancement organizations</u> <u>Land use organizations</u> <u>Property rights organizations</u> <u>Ethnic organizations</u> <u>Neighborhood associations</u> <u>Real estate associations tourism agencies</u>
<b><u>State Agencies</u></b>	<b><u>Tribes</u></b>
<u>Department of Ecology</u> <u>Department of Fish and Wildlife</u> <u>Department of Natural Resources</u> <u>Department of Commerce</u> <u>Puget Sound Partnership</u>	<u>Confederated Tribes of the Colville Reservation</u> <u>Northwest Indian Fisheries Commission</u> <u>Yakama Indian Nation</u>

<u>Department of Health</u> <u>Department of Archaeology and Historic Preservation</u> <u>Department of Transportation</u>	
<b><u>Federal Agencies</u></b>	<b><u>Local Officials</u></b>
<u>U.S. Fish and Wildlife Service</u> <u>NOAA Fisheries</u> <u>U.S. Army Corps of Engineers</u> <u>Federal Emergency Management Agency</u> <u>U.S. Environmental Protection Agency</u>	<u>Neighborhood planning advisory groups</u> <u>Planning Agency</u> <u>SMP advisory groups</u> <u>Appointed Officials</u> <u>Elected officials</u>
<b><u>Neighboring Jurisdictions</u></b>	
<u>Okanogan County</u>	

**Public Hearings**

The Planning Commission will conduct a public comment period and at least one public hearing to solicit input on the SMP prior to submittal of a draft plan to the City Council for its review prior to submittal to the Department of Ecology in April 2023. The City Council will hold one public hearing before final adoption in June 2023.

The city will publish notices of all hearings that will state who is holding the comment period and/or hearing, the date and time, and the location of any public hearing. Notices will be published per official policy and comply with all other legal requirements such as the Americans with Disabilities Act. A notice will be sent to the email list (above) and the Department of Ecology.

**Roles and Responsibilities**

Stakeholders have various roles in the SMP planning and reviewing process. For example, the public’s role is to attend meetings and provide oral or written comments. User groups may develop position papers that they present to the Planning Agency. State and federal agencies may provide technical expertise and information about laws and regulations. The City of Pateros Planning Agency will act as the Shoreline Advisory Committee for this planning effort. The Agency may engage a technical committee, with members requested to provide suggestions and review scientific studies and other data about the local shoreline, analyze the inventory and characterization information, and provide science-based recommendations about shoreline issues. Providing there is an interest, the Agency may also form a citizens committee to review the public participation plan, shoreline policy issues, inventory and characterization, and recommends goals, policies and regulations. This committee also may help organize and conduct public participation events.

Appointed and elected officials also are stakeholders. A Planning Agency usually reviews all available information and recommendations from advisory committees, hears public comment at workshops and public hearings, and makes a recommendation to the City Council. The Council considers available info and the Planning Agency’s recommendation, then decides whether to adopt that recommendation or make changes to it. The Council’s decision is sent to Ecology for review and approval.

The SMA is a cooperative partnership between local and state government. Pateros has the primary responsibility for initiating planning, updates, and administering the regulatory program. The Department of Ecology (Ecology) acts in a support and review role and provides assistance to make sure the SMP complies with the SMA. Ecology approves and adopts SMPs.

The primary contact for the City of Pateros SMP update is:

Kurt Danison, Contract Planner  
509-322-4037, [kdanison@ncidata.com](mailto:kdanison@ncidata.com)

The primary contact for the City is:

Kerri Wilson, Clerk- Treasurer  
509-923-2571, [pateros@swift-stream.com](mailto:pateros@swift-stream.com)

The Washington State Department of Ecology is responsible for providing technical assistance to the City and must approve the City's updated SMP. The primary contact person at Ecology is:

Chandler, Jackie (ECY) <[jcha461@ECY.WA.GOV](mailto:jcha461@ECY.WA.GOV)>

### **What Happens at the End of the Periodic Review?**

At the end of the review, we will know whether we need to revise our SMP. The final steps will include the adoption of a resolution, motion, or ordinance following notice and a public hearing. The including, at a minimum, findings that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore.

### **What Happens If You Don’t Like the SMP?**

An interested party may file an appeal with the Washington State Shorelines Hearings Board within 60 days of the publication date of the written notice of the final action.

## Chapter 4

# Shoreline Characterization

### Overview

This chapter describes the character and baseline conditions of the shoreline areas within the incorporated limits of the City of Pateros and its adopted Future Service Area (also known as Urban Growth Area or Area of Interest) within Okanogan County, Washington. The characterization provides information from which shoreline designations and regulations were established. The regulations in this SMP are intended to protect shoreline ecological function to the extent of no net loss as mandated by the SMA. This chapter provides a brief summary of how **current** baseline levels of ecological function in Okanogan County and Pateros were established. The complete inventory and analysis for Okanogan County and its incorporated municipalities is contained in Appendices A. This 2022 periodic update of the SMP did not entail any revisions to the Shoreline Characterization provided herein.

The first step in designating and protecting shorelines in Pateros Okanogan required a comprehensive inventory of the biological and physical features found within the maximum limits of shoreline jurisdiction. Preparation of the inventory and subsequent analysis that resulted in this characterization was completed by two consultant teams. ENTRIX led the science and analysis side, while Highlands Associates provided current use and planning data. The inventory completed by the consultants was conducted on a county-wide basis and included scientific information gathered from data sets provided by state, federal, and local agencies.

In order to provide a manageable and meaningful scale for the analysis of the inventory data, ENTRIX, using geomorphologic features, divided all shoreline areas into Analysis Units (AUs)<sup>1</sup>. Each AU was analyzed based on biological, physical and land use data<sup>2</sup> and given a Biological Function Score. When synthesized together and run through a computer model, the biological, physical and planning factors provided a baseline reading of existing biological.

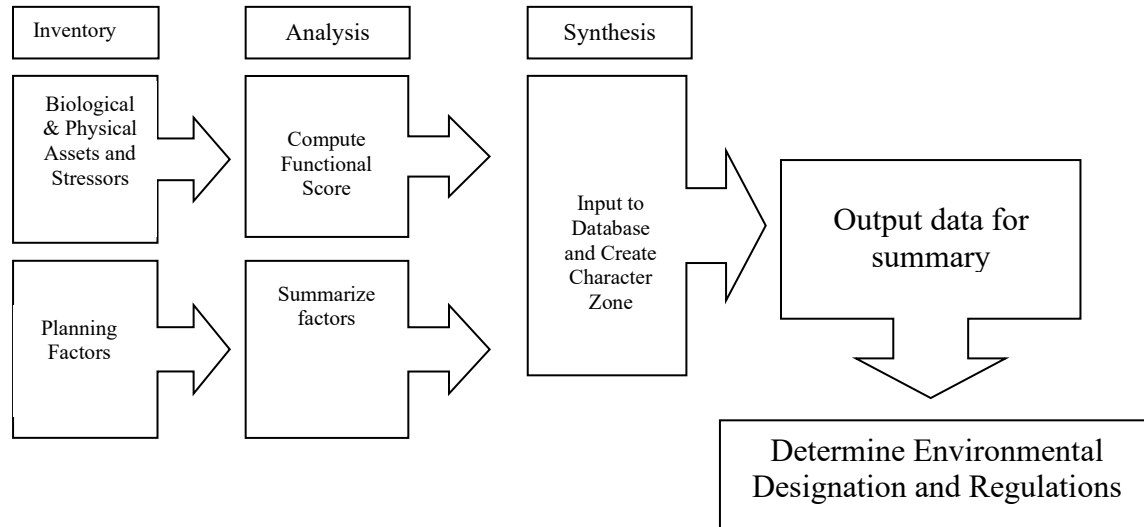
For the purpose of providing a characterization of specific shoreline areas, the AUs were grouped into Character Zones. Character Zones were created based on logical natural landscape features such as prominent changes in the geomorphology, jurisdictional boundaries, Future Service Area Boundaries, or in some cases on the Analysis Unit boundaries. Each Character Zone serves as unit of description by which the scientific inventory and analysis and planning factors are summarized and presented for the City of Pateros in this chapter.

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<sup>1</sup> See the *Okanogan County Shoreline Characterization Report* in Appendix A

<sup>2</sup> See Appendix B, *Analyzing Planning Factors*

## Shoreline Characterization Process



### Inventory of biological and physical factors

ENTRIX, Inc. conducted the inventory of biological and physical factors at a county-wide scale primarily using existing data sets from local, state, and federal agencies. ENTRIX staff reviewed available data sets and selected data that provided consistent coverage of all of the water bodies in the County. Partial data sets that were not available for the whole county were not used in the ENTRIX analysis, however individual jurisdictions may opt include these data (e.g., the Methow Subbasin Plan and Methow River Channel Migration Zone Study). ENTRIX staff then identified potential stressors to shoreline function and ecological assets from the selected data sets. The inventory methodology is explained in detail in Appendix A. Stressors and assets included in the inventory and analysis are listed below.

**Table 4.1 – Stressors and Assets**

<b>Stressors</b>	<b>Assets</b>
<ul style="list-style-type: none"> <li>▪ Water quality class</li> <li>▪ Facilities based on permitting</li> <li>▪ Bridges</li> <li>▪ Overwater Structures</li> <li>▪ Mines</li> <li>▪ Culverts</li> <li>▪ Boat launches</li> <li>▪ Rail</li> <li>▪ Roads</li> <li>▪ Levees</li> <li>▪ Riprap</li> <li>▪ Geologically hazardous areas</li> <li>▪ Intensive Agriculture</li> <li>▪ Disperse Agriculture</li> <li>▪ Residential Development</li> <li>▪ Light Industrial Development</li> <li>▪ Heavy Industrial Development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Aquatic species</li> <li>▪ Riparian species</li> <li>▪ Upland Species</li> <li>▪ Salmon spawning/rearing habitat</li> <li>▪ NOAA critical habitat</li> <li>▪ Wetlands</li> <li>▪ Potential Migration Zones</li> <li>▪ % Riparian vegetation</li> </ul>

### **Inventory of planning factors**

Highlands Associates conducted an inventory of planning factors, using existing data layers from Okanogan County and additional data layers created by Highlands’ staff. Planning factors were selected that would be useful for making planning decisions related to designation and protection of shoreline ecological functions, public access, and navigation while also allowing for development consistent with local plans and protection of property rights. The inventory methodology is explained in detail in Appendix B. The planning factors included in the inventory are listed below.

- Parcel size and density of subdivision
- Current land uses
- Building Set backs
- Number of Structures in shoreline environment

- Public Access and Recreation Sites
- Current Comprehensive Plans and Zoning (1965 Comprehensive Plan)
- Ownership Patterns
- Over-water Structures

## Analysis Units

The purpose of the analysis unit was to create a unit of measure that could appropriately capture and synthesize county-wide scientific data while providing meaningful interpretation of results. Analysis units were based on geomorphological and physiographic breaks calculated from Digital Elevation Models (DEMs), and, to some degree, jurisdictional boundaries. The inventory and analysis of biological and physical factors completed by ENTRIX resulted in the shoreline areas of Okanogan County being divided into a total of 233 analysis units, 3 of which comprise the Lake Pateros Character Zone; These analysis units (AUs) serve as the unit of assessment for the baseline shoreline function analysis. Each analysis unit was plotted based on its combined ecological resources (assets) and stressor to arrive at a location in a given quadrant along the plot. The analysis unit was then given a final composite quadrant score ranging from 1-4:

**1 = low condition, low asset**

**2 = high condition, low asset**

**3 = low condition, high asset**

**4 = high condition, high asset**

The results of this analysis can be found in Appendix A. The analysis units were then used to compile the planning factor data listed above.

## Shoreline Character Zones

While the AU scale served as the unit of measure for both the scientific and planning factors, the character zone provides a manageable scale to summarize and describe the bio-physical and land use patterns. The character zone may have multiple shoreline designations but it will likely have similar land use patterns and be administered under the same jurisdiction. The character zone summary page for Pateros found in this chapter is a summary of all the components entered in a central database to create the characterization and can be used as reference to gain meaningful information regarding shoreline's ecological condition and land use patterns. Three analysis units make up the Lake Pateros Character zone, S COL 3, S MET 01 & 02. A database of the characterization was created and is stored at Okanogan County Office of Planning [and Development](#).

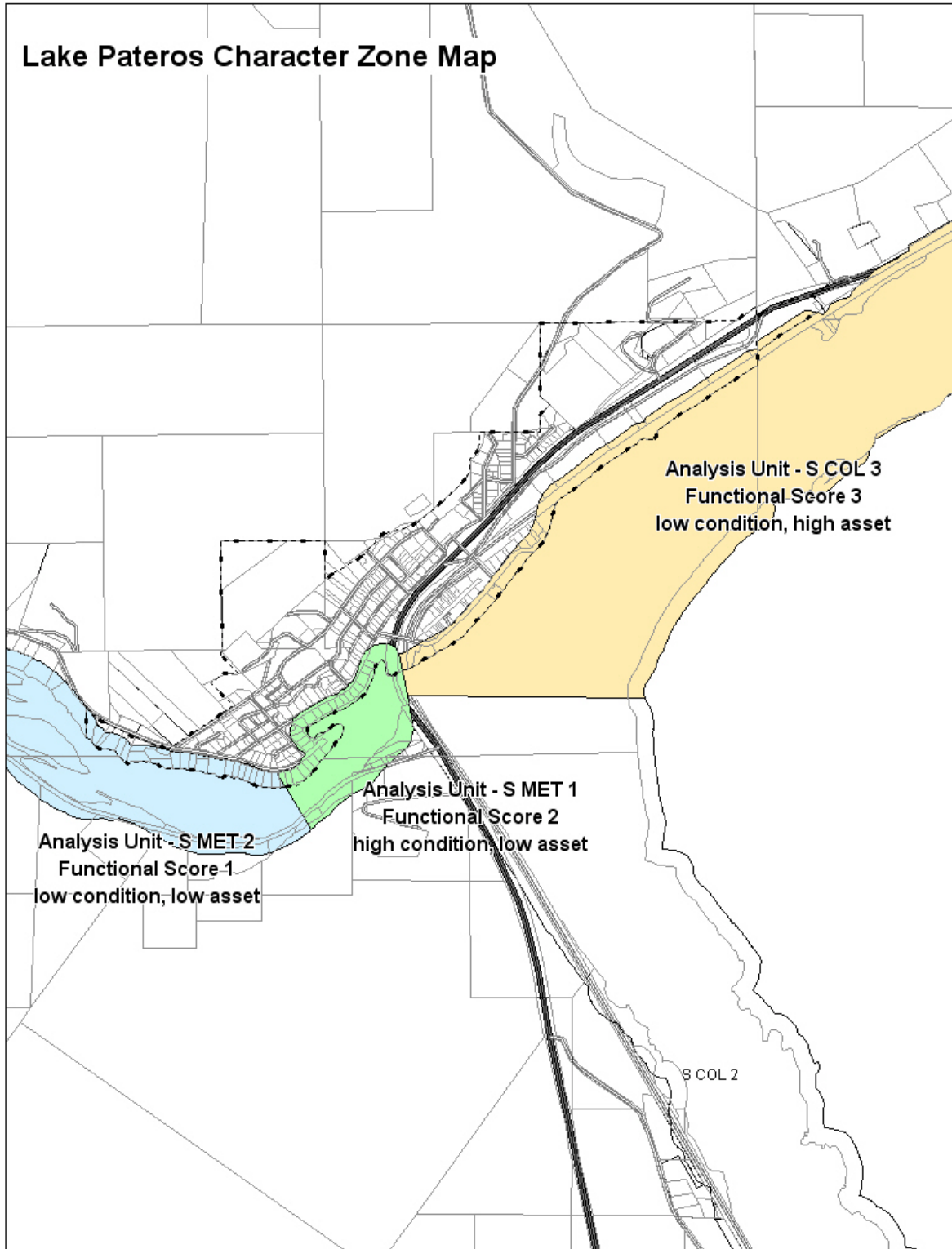
## City of Pateros Shoreline Characterization

The City of Pateros is located along the mouth of the Methow River where it flows into the Columbia; both are Shorelines of Statewide Significance (see Chapter 5 for more information on Shorelines of Statewide Significance). Shorelines include the banks of the Columbia River along Wells Pool (aka Lake Pateros) running downstream from RM 523 to the confluence with the Methow River and extending up the Methow to RM 1.7.

It is characterized by the inundation zone of Wells Pool, an impoundment created by the Douglas PUD's AZ Wells Dam on the Columbia and the lower Methow Rivers within the city and its urban growth area. Because of the reservoir, the shorelines in Pateros are functionally categorized as lake shores and commonly referred to as Lake Pateros. Therefore, the Character Zone holds the name Lake Pateros and contains three Analysis Units, S MET 01 & 02, and S COL 03.

These shorelines do not experience typical river dynamics marked by seasonal fluctuations in flows. The pool level is controlled and fluctuations can occur seasonally or in some instances daily in response to flooding, power generation and fish passage. These fluctuations and wave action from winds and boat traffic are the primary forces that affect the shoreline physical environment. This area has been heavily altered by inundation and filling. The entire shoreline is composed of up to nine feet of fill and is therefore supported by continuous reinforcements (rip rap) along the shoreline. This highly manipulated shoreline provides for recreational (including overwater structures - docks), residential, commercial and industrial development (including the City's wastewater treatment plant). Docks, floats and the US 97 and railroad bridges contribute to a total count of at least ten (10) over water structures throughout the city. These intense impacts compromise the biological functions resulting in shorelines that generally exhibit high stressors. Still, anadromous fish utilize these waters for migration and rearing, so the importance of management of these shorelines is vital for protection of remaining ecological integrity.

The majority of the waterfront shoreline is owned by the Douglas County PUD, with a segment upstream from the Methow River Bridge and the area around the Wastewater Treatment Plant owned by the City. Native riparian vegetation can be found in portions of the Methow River where mid-channel islands, bars, and wetlands have been established for wildlife. The majority of the zone, however, is dominated by residential lawns or parkland landscaping along the City and PUD lands. Residential and commercial development line the north bank of Lake Pateros and the Methow River while public access is provided at numerous PUD developed and city managed parks. Douglas PUD operates 2 access sites in this reach, including a boat launch and fishing site. It is a popular site for all types of watercraft including rafts, kayaks, motorized boats and jet skis. The PUD site on the south bank of the Methow across from Pateros is the primary take-out site for commercial float trips on the lower Methow River. A map of the Lake Pateros Character Zone is included on the following page.



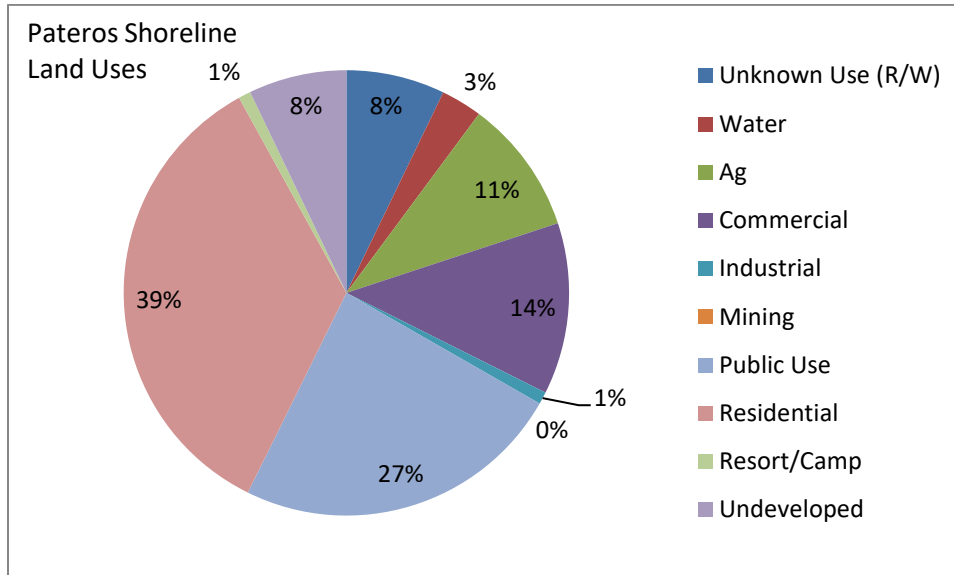
## Population and Demographics

Poised as the gateway to Okanogan County and the Methow Valley along US 97 (designated as the Okanogan Trails Scenic Byway), Pateros sits above the banks of the Columbia River overlooking the Wells Dam impoundment. Okanogan County's population estimate for ~~2009~~ 2022 was ~~4042,500-700~~ (OFM). Pateros share of the County's population is roughly ~~1.5638%~~ with a population of ~~630-590~~ (2022 April 1 OFM estimates).

## Land Uses and Development Patterns

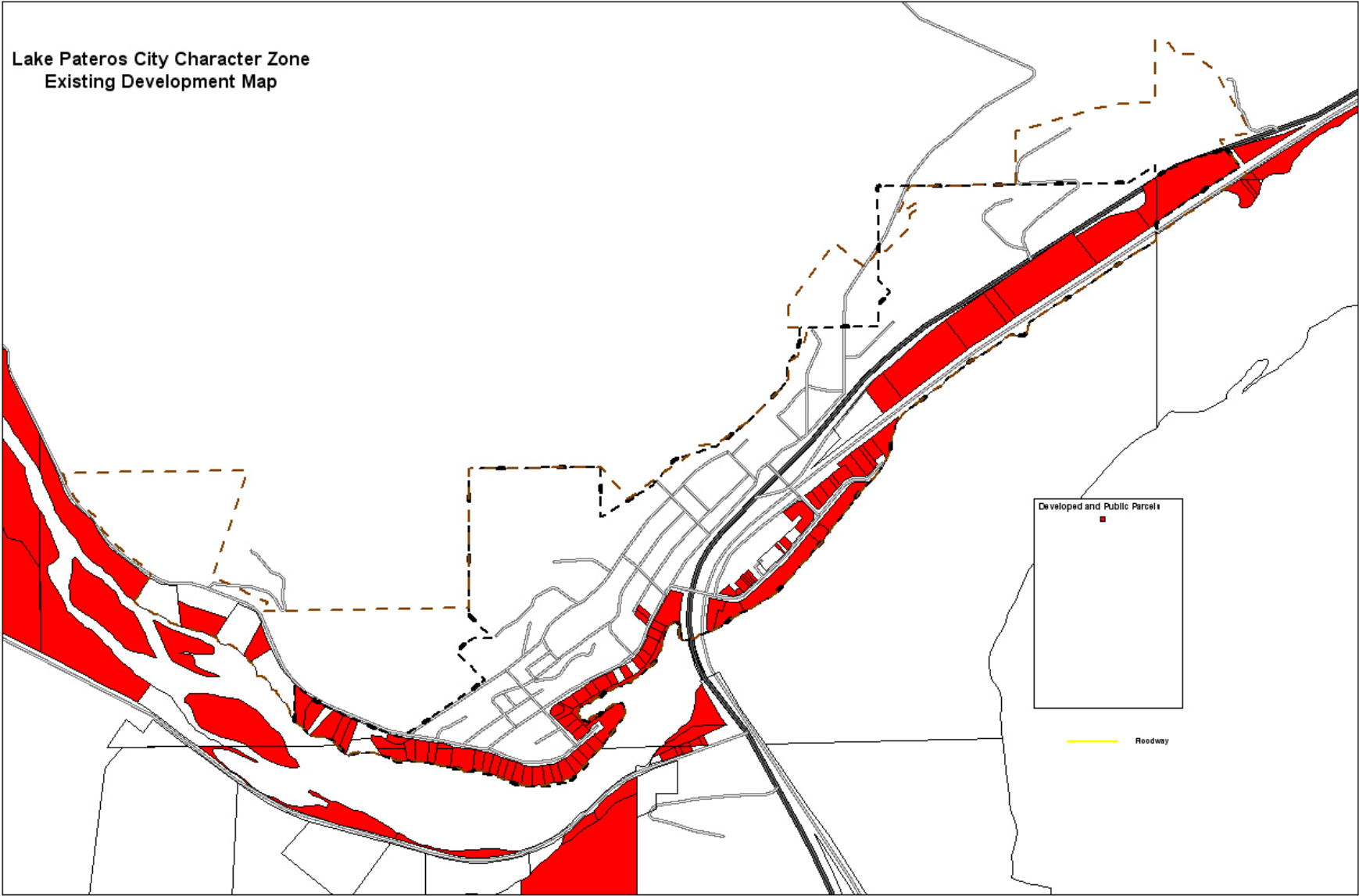
Pateros's central business district is located between US 97 and the Columbia River. The shorelines near the city center of Pateros are lined by a linear stripe of parkland owned by the Douglas County PUD. Commercial development is generally separated from the shoreline by this public open space (the exceptions include two large hotels and city hall). Industrial uses are located east of downtown. A rail line parallels the Columbia River north out of the city. The portion of the city that lies on the banks of the Methow River is occupied primarily by single-family residential development and several developed city parks. There are approximately 109 buildings within the shoreline area of Pateros (including a large hotel completed in 2010).

## Shoreline Land Uses in Pateros (2010)



The following map depicts developed parcels in the Lake Pateros Character Zone.

The potential impacts of increased development of the shorelines in Pateros are discussed in Chapter 9.



## **Recommendations**

The results of the characterization find that the shorelines within and adjoining the City of Pateros offer limited potential for restoration as the majority has already been developed with residential, commercial, industrial or recreational uses. The fact that the majority of the shoreline area was armored and filled as part of the development of the Wells Pool also limits opportunities for restoration.

With the majority of shoreline parcels within the City presently developed with residential or commercial uses, it is important that the shoreline designations and regulations applied in this SMP recognize existing structures and uses as well as the City's future land use plans.

## **Character Zone Summaries:**

**Table 4.2**

**Shoreline Character Zones – Summary Pages**

WATERSHED	CHARACTER ZONE		ANALYSIS UNITS											
LOWER METHOW	LAKE PATEROS		S COL 03 S MET 01 S MET 02											
<b>Landuse Percentage (by Parcel) within Shorelines of Okanogan County</b>														
Column Key			(a) Number of Parcels	(b) Parcels Analyzed	(c) Unknown Use	(d) Number of Water Parcels	(e) Agriculture	(f) Commercial	(g) Industrial	(h) Mining	(i) Public Use	(j) Residential	(k) Resort/Camp	(l) Undeveloped
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)		
S COL 03	59	54	3	2	11%	41%	4%	0%	28%	6%	2%	9%		
S MET 01	53	46	5	2	2%	0%	0%	0%	30%	57%	0%	11%		
S MET 02	54	49	4	1	18%	0%	0%	0%	22%	55%	0%	4%		
Totals/Avg:	166	149	12	5	11%	14%	1%	0%	27%	39%	1%	8%		
<b>Comprehensive Plan Designations</b>				<b>Public Access Points</b>				<b>Zoning</b>						
CBD				DEVELOPED: 4				CBD						
COM/RET				UNDEVELOPED:				COMRET						
INTS AG				INFORMAL:				LI						
Light Industrial				UNKNOWN:				MINREQ						
PU								PU						
SFR								R1A						
TC								TCD						
UGA-RES								WATER						
Unclassified														
WATER														
WELLS DAM RES														
<b>Structures</b>			<b>Current Shoreline Designations</b>											
S COL 03	38		S COL 03    RUR											
S MET 01	30		URB											
S MET 02	40		WATER											
Total	108		S MET 01    RUR											
			SUB											
			WATER											
			S MET 02    RUR											
			SUB											
			WATER											
<b>Overwater Structures</b>				<b>QuadScore</b>										
S COL 03	5 docks, 1 pier			Score 1    Score 2    Quad Score										
S MET 01	1 dock, Bridge			S COL 03    0.78    0.61    3										
				S MET 01    0.83    0.40    2										

S MET 02	1 float, 1 dock				S MET 02	0.81	0.52	1
					Averages:	0.81	0.51	2
<b>Setbacks</b>					<b>Subdivision Density</b>			
	Avg	Max	Min	Std Dev	S COL 03	0.66		
S COL 03	182.92	520.00	50.00	106.10	S MET 01	2.01		
S MET 01	72.63	120.00	1.00	21.28	S MET 02	0.91		
S MET 02	107.93	300.00	20.00	69.46	Average:	1.19		
Averages:	121.16	313.33	23.67	65.61				

**Narrative**

Shorelines in the Lake Pateros Character Zone include the banks of the Columbia River along the Wells Pool running downstream from RM 523 to the confluence with the Methow River and extending up the Methow to RM 1.7. It is characterized by the inundation zone of the Wells Pool along the Columbia and the Methow within the urban growth boundary of Pateros. This area has been heavily altered by inundation and filling. The entire shoreline is composed of up to nine feet of fill and is therefore supported by continuous rip rap along the shoreline. The majority of the waterfront shoreline is owned by the Douglas County PUD. Native riparian vegetation can be found in portions of the Methow River where mid-channel islands, bars, and wetlands have been established for wildlife. The majority of the zone, however, is dominated by residential lawns or parkland landscaping along the PUD lands. Residential and commercial development line the north bank of Lake Pateros and the Methow River while public access is provided in the at numerous PUD locations and city parks. WDFW operates 2 access sites in this reach, including a boat launch and fishing site. It is a popular site for all types of watercraft including rafts, kayaks, motorized boats and jet skis. The WDFW site on the south bank of the Methow across from Pateros is the primary take-out site for commercial float trips on the lower Methow River.

## CHAPTER 5: SHORELINES OF STATEWIDE SIGNIFICANCE

### Introduction

The Shoreline Management Act of 1971 (as amended) designated certain shoreline areas as shorelines of state-wide significance. Such shorelines are considered major resources that benefit all people in the state. Within Okanogan County, shorelines meeting the following definition are considered shorelines of state-wide significance.<sup>1</sup>

- Lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
- Those natural rivers or segments thereof as follows: any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

Shorelands associated with those rivers and lakes are also considered shorelines of statewide significance.

#### 5.01 Lakes

There ~~is one~~are no lakes of statewide significance affecting the city of ~~Oroville-Pateros in Okanogan County~~. ~~The lake of statewide significance subject to the provisions of this SMP is:~~  
~~Lake Osoyoos~~

#### 5.02 Rivers

There are five rivers of statewide significance ~~affecting the cities and towns~~ in Okanogan County, two of which affect Pateros. These se rivers of statewide significance subject to the provisions of this regional SMP are:

~~A. Chewuch (Chewack)—from the point where the mean annual flow reaches 200cfs downstream to the Chewuch River’s confluence with the Methow River;~~

~~B.A. Methow—~~from the point where the mean annual flow reaches 200cfs downstream to the Methow River’s confluence with the Columbia River (Lake Pateros);

~~C. Okanogan—~~from the outflow at Zoesel Dam on Lake Osoyoos to the Okanogan River’s confluence with the Columbia River (Lake Pateros—the entire length of the Okanogan River within the United States), ~~except the left bank within the boundaries of the Colville Indian Reservation;~~

<sup>1</sup> “Shoreline management act of 1971.” 90.58 RCW. Part 030.2.e.  
<<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58&full=true>>. Accessed September 15, 2008.

- ~~D. Similkameen—from the Canadian border to the Similkameen River’s confluence with the Okanogan River (the entire length of the Similkameen River within the United States);~~
- ~~E. Twisp—from the point where the mean annual flow reaches 200cfs downstream to the Twisp River’s confluence with the Methow River.~~
- ~~F. (Refer to Appendix A and B and Chapter 4 for inventory information surface areas, data sources, and other details about the rivers).~~

### ***5.03 Columbia River Impoundments***

~~The B.~~ Columbia River is a river of statewide significance. There is one impoundment on the Columbia River that affects the city of Pateros. Lake Pateros, is subject to the provisions of this SMP.

(Refer to Appendix A and B and Chapter 4 for inventory information surface areas, data sources, and other details about the Columbia River impoundments).

### **5.03 Order of Preference**

Because shorelines of state-wide significance are major resources that benefit all people in the state, the SMA mandates that the city of Pateros give preference to uses that favor long-range goals and support the overall public interest. Pateros adopts the following guidelines for shorelines of state-wide significance, listed in the order of preference specified by the SMA:

- A. Recognize and protect the state-wide interest over local interest.
  - 1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the regional master program and any amendments to state agencies, adjacent jurisdictions, citizen's advisory committees, local officials, and state-wide interest groups.
  - 2. Recognize and take into account state agencies' policies, programs, and recommendations in developing and administering use regulations and in approving shoreline permits.
  - 3. Solicit comments, opinions, and advice from individuals with expertise in ecology, geology, limnology, aquaculture, and other scientific fields relevant to shoreline management.
- B. Preserve the natural character of the shoreline.
  - 1. Designate and administer shoreline environments and use regulations so as to minimize damage to the ecology of the shoreline as a result of man-made intrusions on the shoreline.
  - 2. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impacts on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity or undeveloped areas.
  - 3. Protect, preserve, and enhance the existing diversity of vegetation, habitat values, and wetlands associated with shoreline areas.

- C. Result in long-term over short-term benefits.
  - 1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
  - 2. In general, preserve resources and values of shorelines for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
  - 3. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- D. Protect the resources and ecology of the shoreline.
  - 1. Minimize development activity that would interfere with the natural functioning of the shoreline ecosystem, including but not limited to stability, drainage, aesthetic values, and water quality.
  - 2. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including migratory routes and areas used for spawning, nesting, rearing, and habitat.
  - 3. Public access to natural areas should be based on the ability of the area to support the use.
  - 4. Preserve especially valuable or environmentally-sensitive wetlands for use as open space, and encourage restoration of presently degraded wetland areas.
- E. Increase public access to publicly owned areas of the shoreline.
  - 1. Where possible, develop paths and trails to shoreline areas and linear access along the shorelines. Associated parking should be upland of the permitted use.
  - 2. Locate development landward of the ordinary high water mark so that access is enhanced.
- F. Increase recreational opportunities for the public on the shoreline.
  - 1. Plan for and encourage development of facilities for recreational use of the shoreline.
- G. Reserve areas for lodging and related facilities on uplands with provisions for non-motorized access to the shoreline.

## **CHAPTER 6:**

# **REGIONAL MASTER PROGRAM GOALS AND POLICIES**

### **Introduction**

As required by the Shoreline Management Act (as amended), the following goals and policies have been developed to provide the basis for implementation of the Act in Okanogan County and the incorporated communities therein.

### **Sections**

- 6.01 General Goals and Policies**
- 6.02 Economic Development Goals and Policies**
- 6.03 Public Access, Circulation and Recreation Goals and Policies**
- 6.04 Conservation, Critical Areas and Flood Hazard Prevention Goals and Policies**
- 6.05 Historic, Cultural, Scientific, and Educational Goals and Policies**

### **Use Specific Policies**

- 6.06 Agriculture**
- 6.07 Aquaculture**
- 6.08 Boating Facilities**
- 6.09 Commercial Uses**
- 6.10 Industrial Uses**
- 6.11 In-stream uses**
- 6.12 Mining**
- 6.13 Municipal Uses**
- 6.14 Over water structures (piers and docks)**
- 6.15 Parking and Transportation**
- 6.16 Recreational Uses**
- 6.17 Residential development**
- 6.18 Subdivision and Land Segregation**
- 6.19 Signs**
- 6.20 Utilities and Accessory Utilities**
- 6.21 Shoreline Modifications**

## 6.01 General Goals and Policies

### 6.01 A. The following goals apply to all shoreline areas, uses and activities:

**6.01 A. 1.** Provide for the use, development, protection and enhancement of shoreline areas in compliance with the requirements of the Shoreline Management Act.

**6.01 A. 2.** Shoreline management planning and regulation take place in a context that includes comprehensive land use, economic development, flood hazard management, salmon recovery, outdoor recreation, public utilities and watershed planning. The intent is to enhance the efficiency and effectiveness of natural resource planning processes through coordination.

**6.01 A. 3.** Provide for reasonable and appropriate use of shoreline and adjacent land areas while:

**6.01 A. 3. a.** Protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life;

**6.01 A. 3. b.** Minimizing damage to the ecology, environment, and other resources of the shoreline area;

**6.01 A. 3. c.** Minimizing interference with the public's use of the water; and

**6.01 A. 3. d.** Balancing public interest with protection of private property rights.

**6.01 A. 4.** Encourage a diversity of shoreline uses, consistent with the city of Pateros' evolving economy and patterns of land use.

**6.01 A. 5.** Minimize flood damage, including damage resulting from actions outside shoreline areas.

### 6.01 B. The following policies apply to all shoreline areas, uses and activities:

**6.01 B. 1.** This SMP should not deny all economic use of any property, except as the public trust doctrine would limit the use of the property. This policy should be implemented through the appropriate application of methods including but not limited to project design standards, site specific evaluation, mitigation, and variances.

**6.01 B. 2.** This SMP should be integrated into the Pateros Comprehensive Plan and implementing regulations.

**6.01 B. 3.** Where practical, shoreline management planning and regulation should be coordinated with other natural resource planning efforts (local, state, federal and tribal) affecting the city of Pateros ~~and Okanogan County~~; a comprehensive system of consistent policies and regulations is the desired outcome.

**6.01 B. 4.** In designating shoreline areas on PUD, City and state ~~and federally~~-owned land, the city of Pateros should consider the uses planned, local and specific agency plans

and potential leases for private uses and activities by the agency with management authority.

**6.01 B. 5.** Development and uses within shoreline areas should be conditioned to ensure that the proposed use or activity does not result in unanticipated or undesired impacts to other property owners (such as increased flood or geohazards to other property(ies), either upstream, downstream and across the stream), or result in loss of shoreline ecological functions.

**6.01 B. 6.** Shoreline uses and activities should be compatible with existing and planned uses on surrounding sites and in adjacent environments.

**6.01 B. 7.** Permitted uses and activities should be located, sited, designed, managed, and maintained to be compatible with the shoreline environment designation where they are located and be protective of shoreline ecological resources, including the following:

**6.01 B. 7. a.** Water quality;

**6.01 B. 7. b.** Visual, cultural and historic characteristics;

**6.01 B. 7. c.** Physical resources (including soils);

**6.01 B. 7. d.** Biological resources (including vegetative cover, wildlife, and aquatic life);

**6.01 B. 7. e.** Ecological processes and functions; and

**6.01 B. 7. f.** The natural character of the shoreline area.

**6.01 B. 8.** Any use or activity that cannot be designed, mitigated and/or managed to prevent a net loss of shoreline ecological functions, values and resources and that are not designed to protect the integrity of the shoreline environment should be prohibited.

**6.01 B. 9.** Shoreline regulations, including shoreline designations, should favor preservation of resources and values of shorelines for future generations over development that would irrevocably damage shoreline resources.

**6.01 B. 10.** Development standards, including setbacks, densities, height and bulk limits and/or minimum frontage standards, should be established to ensure that new development results in no net loss of shoreline ecological functions. Criteria considered in establishing those standards should include, but not be limited to, the following:

**6.01 B. 10. a.** Biophysical limitations and ecological functions and values of the shoreline area;

**6.01 B. 10. b.** Surrounding development characteristics and land division pattern;

**6.01 B. 10. c.** Level of infrastructure and services available or planned; and

**6.01 B. 10. d.** Other comprehensive planning considerations.

**6.01 B. 11.** New uses and activities should be restricted to those that will not require extensive alteration of the land-water interface. Construction of shoreline stabilization works should be avoided. New uses and activities should be designed to preclude the

need for such works. In those limited instances in which such works are found to be in the public interest and are allowed, impacts should be mitigated.

**6.01 B. 12.** No new uses should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing.

**6.01 B. 13.** The scenic and aesthetic quality of shorelines and vistas should be preserved to the greatest extent feasible.

**6.01 B. 14.** Natural plant communities within and bordering shorelines should be protected and maintained to ensure no net loss of shoreline ecological functions.

**6.01 B. 15.** Natural shoreline vegetation should be maintained and enhanced to reduce the hazard of bank failures and accelerated erosion. Vegetation removal that is likely to result in soil erosion severe enough to create the need for structural shoreline stabilization measures should be prohibited.

**6.01 B. 16.** Restoration of degraded shoreline vegetation, whether by natural or manmade causes, should be encouraged wherever feasible.

**6.01 B. 17.** Non-structural and “soft” methods of shoreline stabilization, such as vegetation enhancement and bioengineering, are preferred to hardened structures to control the processes of erosion, sedimentation, and flooding. Along the shoreline, these methods can only be done to protect legally established existing structures, development, utilities and other infrastructure (e.g. roads). The need for bank stabilization should show that the erosion/migration processes are beyond natural rates through geotechnical evaluation. Allowed shoreline stabilization structures should be designed as to not interfere with natural hydrologic and geomorphic processes.

**6.01 B. 18.** Removal of vegetation should be limited to the minimum necessary to reasonably accommodate the permitted use or activity.

**6.01 B. 19.** The physical and aesthetic qualities of the natural shoreline should be maintained and enhanced.

**6.01 B. 20.** Preference should be given to preserving and enhancing natural vegetation closest to the ordinary high water mark.

**6.01 B. 21.** Aquatic weed management should emphasize prevention as a first step in control and utilize science-based monitoring to determine eradication methods.

**6.01 B. 22.** Standards to ensure that new development does not result in a net loss of shoreline ecological functions or further degradation of shoreline values should be established for shoreline stabilization measures, vegetation conservation, and shoreline modifications (See Section 6.21).

**6.01 B. 23.** All shoreline developments should be designed, constructed, operated, and maintained to ensure no net loss of shoreline ecological functions and to protect areas and systems of cultural significance.

## **6.02 Economic Development Goals and Policies**

### **6.02 A. The following goal applies to Economic Development within shoreline areas:**

**6.02 A. 1.** Ensure healthy, orderly economic growth by providing for economically productive industrial, commercial and mixed uses that are particularly dependent on or related to a shoreline location.

### **6.02 B. The following policies apply to Economic Development within shoreline areas:**

**6.02 B. 1.** Activities and uses in shoreline areas should result in long-term over short-term benefits to the local economy.

**6.02 B. 2.** Projects of statewide economic interest such as hydroelectric development, water storage, port facilities, (including sites intended to accommodate recreation) and other developments that are particularly dependent on or related to a shoreline location or use of the shorelines of the state should be accommodated where such uses and the associated activities can be accomplished without irrevocable damage to unique shoreline character, its resources and ecological functions.

**6.02 B. 3.** Proposed hydroelectric projects should be evaluated in the context of shoreline ecological functions, public access, and navigation, and should be accommodated where said projects are consistent with the public interest and intent of the policies of the SMA.

**6.02 B. 4.** Water-Oriented Commercial and mixed used developments that provide for public access and protect/restore or enhance shoreline resources should be encouraged on shorelines.

**6.02 B. 5.** Non-water-oriented commercial uses should be prohibited unless the use entails reuse of an existing structure or developed area, is consistent with comprehensive plan and zoning regulations, is part of a project that provides significant public benefit with respect SMA objectives or is physically separated from the shoreline by a public right of way or another property. Such projects should not unnecessarily impair or detract from the public's physical or visual access to the water.

## **6.03 Public Access, Circulation and Recreation Goals and Policies**

Shoreline public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state and the ability to have a view of the water and the shoreline from adjacent locations. Public access can include (but is not limited to) picnic areas, pathways and trails, floats and docks, viewing towers, bridges, boat launches, street ends, ingress and egress, and parking. Visual access can also include (but is not limited to) view corridors between buildings.

**6.03 A. The following goals apply to public access, circulation and recreation within shoreline areas:**

- 6.03 A. 1.** Provide, protect, and enhance physical and visual public access to shoreline areas, consistent with the natural character, features, and resources of the shoreline, private property rights, and public safety.
- 6.03 A. 2.** Provide for public and private active and passive recreational use of shoreline areas.
- 6.03 A. 3.** A safe, reasonable, and adequate vehicular and pedestrian circulation and access system, designed to minimize adverse effects on shoreline resources and ecological function wherever practical.
- 6.03 A. 4.** A multi-modal circulation and access system that, where practical, contributes to the functional and visual enhancement of shoreline resources.
- 6.03 A. 5.** Preserve, create, or enhance open space and natural amenities associated with shorelines for the benefit of the public health and wellbeing which are often lost to waterfront development.
- 6.03 A. 6.** Protect the rights of navigation.

**6.03 B. The following policies apply to public access and recreation within shoreline areas:**

- 6.03 B. 1.** For the purpose of this ~~Regional~~ SMP, ~~locally adopted~~ the Pateros Comprehensive Plans, -and any stand-alone elements thereof (e.g. ~~Okanogan County Outdoor Recreation Plan, Douglas PUD Recreation Management Plan, City of Patero Park and Recreation Plan)~~ and current Douglas PUD Recreation Management Plan should be considered the official public access plans.
- 6.03 B. 2.** The city of Pateros shoreline area public access systems should include provisions for people with disabilities. While it may not be practical to provide specialized facilities at all access points, physical and visual access for people with disabilities should be distributed throughout the system and should provide a variety of opportunities representative of the opportunities available to able-bodied users.
- 6.03 B. 3.** All developments, uses, and activities on or near the shoreline should, to the extent practical, not impair or detract from the public's physical or visual access to the water.
- 6.03 B. 4.** Provision of public access should result in no net loss of shoreline ecological functions.
- 6.03 B. 5.** Public access to the shorelines afforded by street ends, public utilities, and rights-of-way should be inventoried, preserved, maintained, and, where consistent with locally adopted access plans, enhanced.
- 6.03 B. 6.** Public access facilities should be located and designed to provide for public safety and minimize potential impacts to private property and individual privacy. Where

appropriate, there should be a physical separation or other means of clearly delineating public and private space to avoid unnecessary user conflict.

**6.03 B. 7.** Where public access facilities are provided, they should be located and designed to minimize potential impacts to existing and potential uses and activities.

**6.03 B. 8.** Where providing public access on site that would likely cause impacts difficult or impossible to mitigate—for instance, at sites with unique or fragile geological or biological characteristics—the ~~Regional~~-SMP should encourage off-site public access based on opportunities identified in the *Shoreline Characterization Report* and other adopted documents.

**6.03 B. 9.** Public views of the shoreline from upland areas should be protected from new development where, not in conflict with permitted uses and activities. Enhancement of views should not be interpreted as authorizing excessive removal of vegetation that impairs views.

**6.03 B. 10.** When large subdivisions (five or more lots), or planned developments and/or binding site plans containing 5 or more units are proposed in shoreline areas, public open space and shoreline access should be required and be commensurate to the impacts of the proposed development as well as, where consistent with locally adopted comprehensive plans and meet new needs that will be generated by the proposed development. Where possible the public open space requirements of this regional SMP should be integrated with any open space requirements in local land use regulations. Innovative public access proposals are encouraged.

## **6.04 Fish and Wildlife Conservation, Critical Areas and Freshwater Protection Goals and Policies**

Fish and wildlife conservation, critical areas and freshwater are to be protected within the shoreline area using the shoreline designations and regulations contained in this SMP. Appendix C contains ~~a~~-maps designating critical areas within the city of Pateros.

### **6.04 A. The following goals apply to Fish and Wildlife Conservation Areas within shoreline areas:**

**6.04 A. 1.** Preserve and restore shoreline natural resources, and protect those resources against adverse impacts, including loss of ecological functions necessary to sustain the natural resources.

**6.04 A. 2.** Develop and implement management practices that will guarantee sustainability of natural shoreline systems and preserve, protect and restore unique and non-renewable resources or features including forested areas, wetlands and wildlife habitat.

**6.04 A. 3.** Sustained yield of shoreline natural resources—such as fish, timber, groundwater, mineral resources, and agricultural products—consistent with preservation

of ecological functions and protection of the public interest in shorelines of the state should be protected.

**6.04 B. The following goals apply to Critical Areas within shoreline areas:**

**6.04 B. 1.** Use the most current, accurate, and complete scientific and technical information available in classifying, designating and regulating Critical Areas within the shorelines areas of the city of Pateros.

**6.04 B. 2.** Provide flexibility in critical areas regulations within shoreline areas, recognizing that the Shoreline Management Act encourages development while protecting shoreline resources from human impacts.

**6.04 B. 3.** Protect the aquifer recharging functions of land located within and adjacent to the city.

**6.04 B. 4.** Maintain a high standard of quality for both groundwater and surface water resources.

**6.04 B. 5.** Increase and maintain awareness on the part of all participants in the community, of the roles and functions of various natural systems in maintaining water quality and quantity.

**6.04 B. 6.** Recognize fish and wildlife habitat as an attractive amenity of the city of Pateros and, protect its valuable role in the local and regional economy.

**6.04 B. 7.** Ensure that the Pateros area experiences no net loss of the functions and values provided by its remaining wetlands.

**6.04 B. 8.** Manage land use in such a way that flood damage potential is minimized and development that increases flood potential is avoided.

**6.04 B. 9.** Avoid the loss of life and property due to development in areas determined to be geologically hazardous.

**6.04 B. 10.** Plan for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth;

**6.04 B. 11.** Regulate uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

**6.04 B. 12.** Encourage the integration of SMP provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore shoreline ecological functions and ecosystem-wide processes into other parts of the City code as well as the County's Regional Shoreline master program.

**6.04 B. 13.** Encourage developers and users to protect hydrologic connections between water bodies, water courses, and associated wetlands.

**6.04 B. 14.** Develop incentives and other means to restore water connections that have been impeded by previous development, and where appropriate, be based on the information from comprehensive watershed management planning as well as other federal and state agency planning where available.

**6.04 C. The following policies apply to all Fish and Wildlife Conservation and Critical Areas within shoreline areas:**

**6.04 C. 1.** The city should review and incorporate the most current, accurate, and complete scientific and technical information available into all critical areas regulations within the shoreline area.

**6.04 C. 2.** The following criteria should be used to determine the most current, accurate, and complete scientific and technical information available for developing and implementing critical areas regulations within shoreline jurisdiction:

**6.04 C. 2. a.** Meets the definition under WAC 173-26-201(2)(a). Such sources may include natural resource science, documented and verifiable research using valid scientific methods, and scientific reports that offer decision making processes and/or tools.

**6.04 C. 2. b.** Regionally relevant and defensible. This includes scientific studies conducted within the region, specific to habitat and/or species known to exist in the region, science generally accepted through past use.

**6.04 C. 2. c.** Locally (sub-regionally) relevant. This includes science which is specific to the local area.

**6.04 C. 2. d.** Isolated/Unique. Such sources would include studies of isolated or unique features, not adequately covered in larger scale scientific sources.

**6.04 C. 2. e.** Anecdotal. Where recognized science does not adequately address a specific situation or location, anecdotal information which can be verified and documented by historical records, photos, or other means.

**6.04 C. 3.** The City should develop and maintain a bibliography of most current, accurate, and complete scientific and technical information available consistent with the criteria in Policy 6.04 C. 2.

**6.04 C. 4.** The City should update critical areas maps within the shoreline area as new scientific information becomes available.

**6.04 C. 5.** Release of hazardous wastes or materials, regardless of their risk potential, should be discouraged.

**6.04 C. 6.** The City should administer development standards that appropriately limit impervious lot coverage and provide for adequate stormwater drainage.

**6.04 C. 7.** The City should apply critical areas classification criteria when requested to comment on any shoreline development applications outside the city boundaries.

- 6.04 C. 8.** The City should apply the classification criteria when annexations are considered so as to identify and provide appropriate shoreline designations and protection for aquifer recharge areas.
- 6.04 C. 9.** The City should identify on a critical areas map those lands with high or moderate aquifer recharge potential and should apply stricter limits to impervious surface coverage in such areas.
- 6.04 C. 10.** The City should consult the Priority Habitat and Species program, or other most current, accurate, and complete scientific and technical information, to meet fish and wildlife habitat needs while providing options for property owners to effectively coexist with critical habitat.
- 6.04 C. 11.** The City should look for opportunities to maintain, improve and restore habitat.
- 6.04 C. 12.** The City should implement an efficient review and permit process, so as to avoid the creation of unnecessary layers of bureaucracy.
- 6.04 C. 13.** Existing and ongoing commercial and agricultural activities in wetland areas that are legally conducted activities should be allowed to continue, so long as further degradation does not occur.
- 6.04 C. 14.** Buffer zones should be established for wetlands that are based on the particular wetland functions and values but should be flexible enough for adjustment for specific situations.
- 6.04 C. 15.** Wetland alteration proposals should be approved only if no alternative is available. When no alternative exists, wetlands replacement or enhancement should be used to mitigate impacts and should be based on the functions and values of the particular wetland being impacted.
- 6.04 C. 16.** The City should utilize the Washington State Wetland Rating System for Eastern Washington to identify wetlands.
- 6.04 C. 17.** Provisions for development of frequently flooded areas of local concern should allow similar options for development as allowed under model regulations for 100-year flood plains.
- 6.04 C. 18.** The City should require that areas identified as steep slopes must be subject to more extensive review and more stringent development standards than other areas.
- 6.04 C. 19.** Areas identified as Erosion Hazard Areas should not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.
- 6.04 C. 20.** Reasonable setback or design considerations for development on or next to an Erosion Hazard Area should be established on a case-by-case basis.

- 6.04 C. 21.** Existing uses legally established in Erosion Hazard Areas should be allowed to continue while expansion of any existing use should meet structural standards that ensure the safety of the project.
- 6.04 C. 22.** A run-off management plan or an erosion control plan should be required of anyone proposing to develop in an area identified as an Erosion Hazard Area, to reduce sedimentation problems.
- 6.04 C. 23.** Disturbance of an Erosion Hazard Area should require replanting or reseeded with native vegetation, to assist in stabilization of the area and to discourage the infiltration of invasive weeds.
- 6.04 C. 24.** Areas identified as Landslide Hazard Areas should not be developed unless it is demonstrated that the project is structurally safe from the potential hazard, and that the development will not increase the hazard risk.
- 6.04 C. 25.** A reasonable setback for development near a Landslide Hazard Area should be established on a case-by-case basis, based on the type of development proposed and the type and extent of Landslide Hazard present.
- 6.04 C. 26.** Should a mine hazard area be identified in Pateros, the site should be noted on site plans for any development activity, a geotechnical report should be required to determine safety distances.
- 6.04 C. 27.** Development of a site that was contaminated by previous mining activities should require the applicant to prepare and implement a reclamation plan, if the hazard is determined to be one constituting a significant hazard to health or the environment.
- 6.04 C. 28.** All development activities should be required to conform to the applicable provisions of the International Building Code, as adopted by the City that contains structural safeguards to reduce the risks from seismic activity.
- 6.04 C. 29.** No development should occur on any known active fault line that has the potential to cause severe damage to structures. A reasonable setback for development should be required on a case-by-case basis (based on the type and recent activity of the particular fault and the proposed development).
- 6.04 C. 30.** The City should work with the County to update the county-wide "Emergency Response Program" to address impacts from geologic hazards.
- 6.04 C. 31.** Developments and uses that would substantially degrade or permanently deplete habitat or the physical or biological resources of the area or inhibit stream movement in channel migration zones should not be allowed. (Refer to the Channel Migration Zone Map, Appendix G). WAC 173-26-231(3)(b)(4th principle).
- 6.04 C. 32.** New development or the creation of new lots that would cause foreseeable risk from geological conditions (e.g. slope, channel migration, erosion) to people or improvements during the life of the development should not be allowed. (WAC 173-26-221(2)(c)(ii)(B))

- 6.04 C. 33.** Structural flood hazard reduction measures should be avoided whenever possible. When necessary, they shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.
- 6.04 C. 34.** Establish provisions that limit development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.
- 6.04 C. 35.** Channel migration zone should be established to identify those areas with a high probability of being subject to channel movement based on the historic record, geologic character and evidence of past migration.
- 6.04 C. 36.** Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.
- 6.04 C. 37.** Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act.
- 6.04 C. 38.** Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.
- 6.04 C. 39.** Plan for and facilitate returning river and stream corridors to more natural hydrological conditions. Recognize that seasonal flooding is an essential natural process.
- 6.04 C. 40.** When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.
- 6.04 C. 41.** Development and uses should comply with this SMP and local flood hazard reduction and/or flood damage prevention ordinances, whichever is more environmentally protective.
- 6.04 C. 42.** New construction shall consider the impacts of the raising and lowering of Lake Pateros by the Douglas PUD on structures and other improvements.
- 6.04 C. 43.** Flood control works in shoreline areas shall be subject to the policies of this section and regulations in Chapters 8.
- 6.04 C. 44.** Assure that flood protection measures result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes.
- 6.04 C. 45.** Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.
- 6.04 C. 46.** Where feasible, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features may include

but not be limited to vegetated berms; and vegetative stabilization, including brush matting and buffer strips and retention of existing trees, shrubs and grasses on banks.

**6.04 C. 47.** Flood control works should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained.

**6.04 C. 48.** Recognizing the large number of physical variables to be considered in properly locating and designing flood control works and the high probability that poorly located and inadequately designed works will fail and/or adversely affect properties and shoreline features, such works should be sited and designed consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, the City of Pateros Comprehensive Flood Hazard Management Plan, and this SMP.

**6.04 C. 49.** Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works and structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

**6.04 C. 50.** In cooperation with other applicable agencies and persons, the jurisdictions should continue to develop and/or update long-term, comprehensive flood hazard management plans to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, soil, and recreation and scenic areas.

**6.04 C. 51.** Planning and design of flood control works should be consistent with and incorporate elements from applicable watershed management, restoration plans and/or surface water management plans.

**6.04 C. 52.** Unless otherwise demonstrated through scientific and technical information, the following characteristics should be considered when establishing the extent of the CMZ for management purposes:

**6.04 C. 53. a.** Within incorporated municipalities and Urban Growth Areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.

**6.04 C. 53. b.** All areas separated from the active channel by a legally existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the 100 year flood, should not be considered to be in the channel migration zone.

**6.04 C. 53. c.** In areas outside incorporated municipalities and Urban Growth Areas, channel constraints and flood control structures built below the 100 year flood

elevation do not necessarily restrict channel migration and should not be considered to limit the channel migration zone unless demonstrated otherwise using scientific and technical information.

**6.04 D. The following goal applies to critical freshwater protection in all shoreline areas:**

6.04 D. 1. The effective management of river and stream corridors depends on (I) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and (II) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development

**6.04 E. The following policies apply to critical freshwater protection in all shoreline areas:**

6.05 E. 1. As part of a comprehensive approach to management of critical freshwater habitat and other river and stream values, the city encourages the integration of this master programs provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes into other parts of the city's code, ~~as well as the County's Regional Shoreline master program~~

6.05 E. 2. This master program encourages developers and users to protect hydrologic connections between water bodies, water courses, and associated wetlands. Restoration planning should include incentives and other means to restore water connections that have been impeded by previous development. and where appropriate, be based on the information from comprehensive watershed management planning as well as other federal and state agency planning where available.

**6.05 F. The following policies apply to flood hazard prevention in all shoreline areas:**

**6.05 F. 1.** Development in floodplains should not significantly or cumulatively increase flood hazards or be inconsistent with comprehensive flood hazard management plans adopted pursuant to Chapter 86.12 RCW.

**6.05 F. 2.** New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be permitted when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

**6.05 F. 3.** The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:

**6.05 F. 3. a.** Actions that protect or restore the ecosystem-wide processes or

ecological functions.

**6.05 F. 3. b.** Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.

**6.05 F. 3. c.** Mining when conducted in a manner consistent with Section 8.02 H. Mining, the shoreline environment designation, and with the provisions of WAC 173-26-241(3)(h).

**6.05 F. 3. d.** Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

**6.05 F. 3. e.** Repair and maintenance of an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

**6.05 F. 3. f.** Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding.

**6.05 F. 3. g.** Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

**6.05 F. 4.** Allow new structural flood hazard reduction measures in 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 on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with Chapter 8, and WAC 173-26-221(5).

**6.05 F. 5.** Structural flood hazard reduction measures shall be consistent with adopted comprehensive flood hazard management plans approved by the Department of Ecology.

**6.05 F. 6.** Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

**6.05 F. 7.** Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent

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

**6.05 F. 8.** Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with the provisions of WAC 173-26, Section 8.03 C. Dredging and Section 8.02 H Mining; and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## **6.05 Historic, Cultural, Scientific, and Educational Goals and Policies**

### **6.05 A. The following goal applies to all uses and activities within shoreline areas:**

**6.05 A. 1.** Recognize and protect important archaeological, historic, and cultural structures, sites, and areas and other resources having historic, cultural, or educational values that are located in the shoreline area for educational, scientific, and enjoyment uses of the general public. (This goal recognizes that identification of some culturally sensitive sites may not be feasible. It is the city of Pateros' intention to exercise due diligence in protecting cultural and archaeological resources.)

**6.05 A. 2.** Due to the limited and irreplaceable nature of the resource(s), prevent 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 Washington State Department of Archaeology and Historic Preservation (DAHP).

### **6.05 B. The following policies apply to all uses and activities within shoreline areas:**

**6.05 B. 1.** All uses and activities (public and private) should comply with local, state, federal, and tribal requirements for protection of any resources that have significant archeological, historic, cultural, scientific, or educational value as identified by the relevant authorities, including the Confederated Tribes of the Colville Reservation (CCT) and the Washington State Department of Archaeology and Historic Preservation (DAHP).

**6.05 B. 2.** Where permitted by law, sites containing archaeological, cultural, and historic resources should be identified to avoid damage to the resources and the delay and expense associated with discovery of resources during development. Where disclosure of the location of such sites is restricted, relevant authorities, including the CCT and the DAHP should be notified of permit applications within 500' (five hundred feet) of known archaeological and historic resources.

**6.05 B. 3.** Development within 500' (five hundred feet) of an identified historic, cultural, or archaeological site should be inspected or evaluated by a profession

archaeologist, in coordination with affected Indian tribes, and designed and operated to be compatible with continued protection of the historic, cultural, or archaeological resources.

**6.05 B. 4.** Archaeological sites located both inside and outside shorelines jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this SMP. The provisions of this section apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Additionally, these policies apply on any other sites identified by the DAHP or the CCT as having a high probability of containing significant archaeological and historic resources, consultation with the DAHP and the CCT should be required before issuance of any permits or exemptions. This policy applies to all uses and activities, including individual single-family residences.

**6.05 B. 5.** Where feasible, sites containing archaeological, cultural, or historic resources should be permanently protected and preserved for study, education, and public observation. Feasibility should be assessed in consultation with the CCT and the DAHP and in the context of the proposed development or activity, the location and planned use of the site, and the nature and quality of the shoreline resources present. The CCT and the DAHP should be consulted regarding possible impacts of public access and/or interpretation. In those places where access is deemed feasible and appropriate, such access should be designed and managed to protect the resources.

**6.05 B. 6.** Access to educational, cultural, or historic sites should not reduce their resource value or degrade the quality of the environment.

**6.05 B. 7.** Historic, cultural, and archaeological site development should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shoreline uses should be limited to temporary and reasonable levels.

**6.05 B. 8.** Sites deemed to have educational, cultural, or historic value should be prioritized for purchase or acquisition by gift to ensure their protection and preservation.

**6.05 B. 9.** Significant educational or cultural features or historic sites should be prioritized for restoration to further enhance the value of the shorelands.

## **SPECIFIC USE AND ACTIVITY POLICIES**

### **6.06 Agriculture**

**6.06 A.** New agricultural uses should be allowed where they are consistent with the applicable comprehensive plan and be subject to all applicable provisions of this SMP.

**6.06 B.** A vegetative buffer of native plants should be maintained, or established and maintained between agricultural lands and water bodies or wetlands in order to protect water quality and to maintain habitat for fish and wildlife.

**6.06 C.** Animal feeding operations, retention and storage ponds for agricultural run-off, feed lots, feed lot waste, and manure storage should be located outside of shoreline areas and constructed to prevent contamination of water bodies and degradation of the shoreline environment.

**6.06 D.** Appropriate farm and soil management techniques should be employed to prevent fertilizers, herbicides, and pesticides from contaminating water bodies and wetlands and from having a harmful effect on other shoreline resources such as vegetation and soil.

**6.06 E.** Provisions for public access to shorelines should not restrict current agricultural uses. In the event new public access poses a threat to on-going agricultural uses, the jurisdiction shall facilitate the coordination of activities between conflicting users of the shorelines.

**6.06 F.** Development on agricultural lands not meeting the definition of agricultural activities or the conversion of agricultural land to nonagricultural uses, should be consistent with the environment designation and the general and specific use regulations of this SMP and should not result in a net loss of ecological functions.

### **6.07 Aquaculture**

**6.07 A.** Aquaculture is a water-dependent use and should be considered a preferred use of water areas when consistent with control of pollution, avoidance of adverse impact to the environment, navigation, established water-dependent uses, or aesthetic qualities of the shoreline, and preservation of habitat for resident native species.

**6.07 B.** Since areas suitable for aquaculture are limited by specific biophysical requirements, areas with high potential for aquaculture uses should be identified and protected from degradation by other types of land and water uses.

**6.07 C.** All permitted aquaculture projects should be protected from new development that would be likely to damage or destroy them. New shoreline proposals in the vicinity of an experimental aquaculture project should be restricted or denied if they might compromise the monitoring and data collection required under the permit for the experimental project.

**6.07 D.** Aquaculture methods and structures should be chosen to create the least impact on the visual and environmental qualities of the shorelines. In instances in which a choice of aquaculture methods is available, or where two or more incompatible aquaculture projects

are proposed in the same area, preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts. In general:

**6.07 D. 1.** Projects that require submerged structures or no structures should be preferred over those that involve substantial floating structures.

**6.07 D. 2.** Projects that require few land-based facilities should be preferred over those that require extensive facilities.

**6.07 D. 3.** Projects that involve little or no substrate modification should be preferred over those that involve substantial modification.

**6.07 D. 4.** Projects that involve little or no supplemental food sources, pesticides, herbicides, or antibiotic application are preferred over those that involve such practices.

**6.07 E.** Aquaculture should not be allowed in the following areas:

**6.07 E. 1.** Areas that have little natural potential for the type(s) of aquaculture under consideration.

**6.07 E. 2.** Areas that have water quality problems that make the areas unsuitable for the type(s) of aquaculture under consideration.

**6.07 E. 3.** Areas devoted to established uses of the aquatic environment with which the proposed aquaculture method(s) would substantially and materially conflict. Such uses include but are not limited to navigation, moorage, fishing, underwater utilities, and active scientific research.

**6.07 E. 4.** Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline.

**6.07 E. 5.** Areas where an aquaculture proposal would result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

**6.07 E. 6.** Areas where the proposed activity would adversely affect critical habitat use or value.

**6.07 F.** Because the technology associated with some forms of aquaculture is still experimental, aquaculture should be given flexibility to experiment with new techniques. However, experimental aquaculture projects should be limited in scale, should be approved for a limited and specified period of time, and should be required to develop and implement a monitoring plan to assess the outcomes of the experiment.

**6.07 G.** Aquaculture that involves significant risk to the environment, including risk of cumulative adverse effects on water quality, sediment, quality, benthic organisms, and/or wild fish populations through potential contribution of antibiotic-resistant bacteria, escapement of non-native species, or other adverse effects on native species should not be permitted.

## 6.08 Boating Facilities

**6.08 A.** Boating facilities (docks, piers, ramps, marinas, etc...) should be located, designed, and operated to provide maximum feasible protection and enhancement of aquatic and terrestrial life including animals, fish, birds, plants, and their habitats and migratory routes.

**6.08 B.** Boating facilities, including minor accessory buildings and haul-out facilities, shall be in character and scale with the surrounding shoreline and shall be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Boating facilities should be proposed at the time of subdivision or planned development application.

**6.08 C.** Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials should be encouraged.

**6.08 D.** Public and community boating facilities are preferred over individual private, commercial facilities.

**6.08 E.** Individual private, motorized boat launches shall be prohibited.

**6.08 F.** Community or group facilities shall be required of developments that serve at least four dwelling units if such developments intend to provide moorage.

**6.08 G.** Private and/or commercial boating facilities shall be sited in the appropriate environmental designation.

**6.08 H.** Regional as well as local needs should be considered when determining the location of marinas, boat launches and community docks. Potential sites should be identified near high-use or potentially high-use areas.

**6.08 I.** Dry boat storage should not be considered a water-oriented use. Boat hoists, boat launch ramps, and access routes associated with a dry boat storage facility should, however, be considered to constitute a water-oriented use.

**6.08 J.** Floating homes should be prohibited. Liveaboards are only allowed per the time and regulatory standards established by Department of Natural Resources. For those marinas not located on DNR jurisdictional bed lands, liveaboards are limited to 10% of total moorage and marina should seek to be certified as a clean marina.

**6.08 K.** Because docks can have a significant impact on shoreline habitat and functions the impacts of all docks should be reviewed to ensure that the proposed structure is suitably located and designed and that all potential impacts have been recognized and mitigated.

**6.08 L.** Multiple use and expansions of existing docks should be encouraged over the addition and/or proliferation of new facilities. Joint-use facilities are preferred over new single-use docks.

**6.08 M.** New commercial docks and marinas should be designed to accommodate public access and enjoyment of the shoreline location.

**6.08 N.** Docks should be designed to cause minimum interference with navigation and the public's use of the shoreline.

**6.08 O.** The proposed site of the structure and intensity of use or uses of any dock should be compatible with the surrounding environment and land and water use.

**6.08 P.** Docks not attached to the shoreline (floats) should not extend into waters where they pose a hazard to navigation. Such docks may be allowed by conditional use permit in special situations where the use for such a dock serves a water-oriented use and measures have been taken to reduce the hazard to navigation.

**6.08 Q.** Buoys associated with boating facilities should not impede existing navigational routes, infringe on swimming beaches, or other public access areas. Buoys should be limited to the minimum number needed to provide moorage to the development.

## 6.09 Commercial Uses

**6.09 A.** New commercial development in shoreline areas should be consistent with the ~~applicable local~~ Pateros Comprehensive Plan.

**6.09 B.** No commercial development should be allowed in wetlands or shoreline areas designated Natural.

**6.09 C.** Because shorelines are a limited resource, preference should be given to water-dependent and oriented uses, especially those uses particularly dependent on a shoreline location or those that will provide the opportunity for substantial numbers of people to enjoy the shoreline.

**6.09 D.** Over-water construction for non-water-dependent commercial developments shall be prohibited.

**6.09 E.** Commercial development should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location. Public access should include amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities. Where possible, commercial facilities should be designed to permit pedestrian waterfront activities.

**6.09 F.** Site plans for commercial developments should incorporate multiple-use concepts that include open space and recreation where appropriate to the scope and scale of the project.

**6.09 G.** Commercial developments should be aesthetically compatible with the surrounding area. Aesthetic considerations should be actively promoted by means such as sign control regulations, appropriate development siting, screening and architectural standards, planned unit developments, and landscaping with native plants, including, where appropriate, enhancement of natural vegetative buffers.

**6.09 H.** Commercial developments should be designed, constructed, operated, and maintained to ensure no net loss of shoreline ecological functions and to protect areas of cultural significance.

## **6.10 Industrial Uses**

**6.10 A.** No new non-water-dependent industrial development should be allowed to locate within shoreline areas, except when:

**6.10 A. 1.** The use entails reuse of an existing structure or developed area.

**6.10 A. 2.** The use is consistent with the comprehensive plan and zoning regulations.

**6.10 A. 3.** The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

**6.10 A. 4.** Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

**6.10 A. 5.** In areas designated for industrial use, nonwater-oriented industrial uses could be allowed if the site is physically separated from the shoreline by another property or public right of way.

**6.10 B.** New industrial development in shoreline areas should be consistent with the applicable local Comprehensive Plan and should be located to minimize sprawl and inefficient use of shoreline areas and, where applicable, to promote trip reduction.

**6.10 C.** New over-water construction for industrial uses should be prohibited unless it can be shown to be essential to a water-dependent industrial use.

**6.10 D.** New industrial development should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location unless such access would be incompatible for reasons of safety, security, or impact to the shoreline environment. Where public access is incompatible with the proposed use, any loss of public access opportunity should be mitigated. Where public access is provided, it should include amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities. Where possible, industrial developments should be designed to permit pedestrian waterfront activities.

**6.10 E.** Site plans for industrial developments should incorporate multiple-use concepts that include open space and recreation where appropriate to the scope and scale of the project.

**6.10 F.** To the extent feasible, industrial developments should be aesthetically compatible with the surrounding area. Aesthetic considerations should be actively promoted by means such as sign control regulations, appropriate development siting, screening and architectural

standards, planned unit developments, and landscaping with native plants, including, where appropriate, enhancement of natural vegetative buffers.

**6.10 G.** Industrial developments should be designed, constructed, operated, and maintained to ensure no net loss of shoreline ecological.

## 6.11 In-stream Uses or Structures

"In-stream structure" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark 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.

**6.11 A.** In-stream structures for the benefit of public shall be permitted and subject to all state and federal regulations for in-stream uses,

**6.11 B.** Any permitted in-stream structure shall provide for the protection and preservation of ecological and ecosystem-wide services including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

**6.11 C.** In-stream structures for the benefit of fish enhancement and recovery adjacent to or visible from public~~ally~~-owned shorelines, including bridges and overlooks, shall incorporate a public education element.

**6.11 D.** The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

## 6.12 Mining

**6.12 A.** Commercial mining should be ~~allowed only where the use is dependent on a shoreline location prohibited~~. Mineral prospecting and placer mining should be allowed subject to the *Gold and Fish Rules and Regulations* as they now exist or hereinafter amended.

**6.12 B.** ~~Mineral prospecting and placer mining~~**Mining** and associated activities should result in no net loss of shoreline ecological functions, including impacts to unique or fragile areas and impacts to priority habitats or species and provisions of applicable critical area regulations and shoreline setback.

**6.12 C.** All feasible measures should be taken to protect shoreline areas and water bodies from all sources of pollution, including but not limited to sedimentation and siltation, chemicals and petrochemicals (including both use and spillage), and mining wastes and spoils (including both storage and disposal).

**6.12 D.** All feasible measures should be taken to prevent disruption of ecological processes and functions in shoreline areas and water bodies.

**6.12 E.** Mineral prospecting and placer mining~~Mining~~ uses should allow the natural shoreline systems to function with a minimum of disruption during their operations and should return the site to as near a natural condition as possible upon completion.

**6.12 F.** Adverse impacts of Mineral prospecting and placer mining~~mining~~ operations on surrounding shoreline areas, including visual and noise impacts, should be minimized, and shoreline enhancement should be encouraged.

**6.12 G.** Mineral prospecting and placer mining~~Mining~~ proposals occurring in shoreline jurisdiction should include applicable sections of this SMP's Restoration Plan into any of the development's Dept. of Natural Resources required Reclamation Plans.

## 6.13 Municipal Uses

**6.13 A.** New municipal uses in shoreline areas should be consistent with the Pateros comprehensive and recreation plans and Douglas PUD recreation plans ~~of the local government with jurisdiction~~ and should be located to minimize sprawl and inefficient use of shoreline areas and, where applicable, to promote trip reduction.

**6.13 B.** No municipal uses should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing.

**6.13 C.** Because shorelines are a limited resource, preference should be given to water-dependent and oriented uses, especially those uses particularly dependent on a shoreline location or those that will provide the opportunity for substantial numbers of people to enjoy the shoreline.

**6.13 D.** Over-water construction for non-water-dependent municipal uses shall be prohibited.

**6.13 E.** Where appropriate, municipal uses should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location. Public access should include amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities.

**6.13 F.** Municipal uses should be aesthetically compatible with the surrounding area.

**6.13 G.** Municipal uses should include shoreline enhancement and restoration activities that will visually enhance the shoreline area and contribute to shoreline functions and values.

**6.13 H.** Favorable consideration should be given to proposals that complement their environment and surrounding land and water uses, and that protect natural areas.

## 6.14 Overwater Structures (Docks and Piers)

**6.14 A.** Design and construction standards for docks and piers should be as defined by the Douglas County PUD and U.S. Army Corps of Engineers

**6.14 B.** Overwater structures shall only be permitted for water-dependent and recreational uses only. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section. Dock construction should be restricted to the minimum size necessary to meeting the needs of the proposed water-dependent use.

**6.14 C.** Structures for the purpose of public access shall be permitted in areas that do not alter the natural character of the shoreline and be associated with appropriate environmental designation and underlying land uses.

**6.14 D.** Overwater structures and in-water are subject to all state regulations and permits, this SMP and those requirements set forth by the WA State Department of Natural Resources and Fish and Wildlife, as well as US Army Corps of Engineers ~~and, possibly Douglas County PUD and Port District~~ rules, docks should be designed with these rules in mind and should be constructed of materials approved by those agencies.

**6.14 E.** Group and community docks and piers shall be encouraged during the planning for platting of land through short and long subdivisions and through planned developments where more than two dwelling units are proposed.

**6.14 F.** Water-related and water-enjoyment uses should not be allowed, but in limited circumstances may be allowed as part of mixed-use development in existing over-water structures where they are necessary and auxiliary to the support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

**6.14 G.** Overwater structures built for the benefit of public access on public~~ally~~ owned shorelines such fishing docks and platforms must be designed in a manner to provide universal access to people of varying physical faculties.

## 6.15 Parking & Transportation

**6.15 A.** Parking in shoreline areas should be located upland of the permitted use. Parking located between the Zone 2 buffer and the development may be allowed if the proposed parking location follows:

**6.15 A. 1.** An adopted downtown master plan, neighborhood or sub-area plan; or

**6.15 A. 2.** Current development patterns; or

**6.15 A. 3.** The parking area and development are located behind a flood control device such as levee.

**6.15 B.** In any of the above instances, the applicant must demonstrate that measures to protect ecological function and visual impacts of parking located between the required buffers and building can be addressed through a stormwater management plan, planting plan and appropriate mitigation.

**6.15 C.** Parking facilities should be located, designed and landscaped to minimize adverse impacts, including those related to stormwater runoff, water quality, aesthetics, public access, and vegetation and habitat maintenance.

**6.15 D.** Parking should be planned to achieve optimum use of land within the area under shoreline jurisdiction. Where practical, parking should serve more than one use, such as recreational use on weekends and commercial use on weekdays.

**6.15 E.** Transportation and parking plans and projects shall be consistent with this master program's public access policies, public access plan, and environmental protection provisions.

**6.15 F.** Circulation system planning should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with this master program.

**6.15 G.** Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

## **6.16 Recreational Uses**

**6.16 A.** The location and design of shoreline recreational developments should be consistent with the comprehensive plan and recreation plan of the City.

**6.16 B.** Local, regional, state, and federal recreation planning should be coordinated. Shoreline recreational developments should be consistent with applicable park, recreation, and open space plans of other jurisdictions.

**6.16 C.** A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.

**6.16 D.** Recreational developments should be located, designed, operated, and maintained to cause no net loss of shoreline ecological functions and to be compatible with, and minimize adverse impacts on, valuable cultural and natural features and on nearby land and water uses. Favorable consideration should be given to proposals that complement their environment and surrounding land and water uses, and that protect natural areas.

**6.16 E.** Priority should be given to developments that provide water-oriented recreational uses and other improvements facilitating public access to shoreline areas.

**6.16 F.** Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.

**6.16 G.** All recreational developments should make adequate provisions for:

**6.16 G. 1.** Vehicular and pedestrian access, both on and off site, including, where appropriate, access for people with disabilities.

**6.16 G. 2.** Proper water supply and solid and sanitary waste disposal.

**6.16 G. 3.** Security and fire protection for the use and for any use-related impacts to adjacent property.

**6.16 G. 4.** The prevention of overflow and trespass onto adjacent properties, by methods including but not limited to landscaping, fencing, and posting of the property.

**6.16 G. 5.** Buffering from adjacent private property or natural areas.

**6.16 G. 6.** Trails and paths on steep slopes should be located, designed, and maintained to protect bank stability and comply with applicable Critical Areas.

## **6.17 Residential Development**

**6.17 A.** Residential development on overwater structures is prohibited

**6.17 B.** Development of four or more residential units, whether single-family or multi-family, must provide for public access in the form of physical access and visual access unless it can be shown that public access is adequately provided for on public property within  $\frac{1}{4}$  mile walking distance of the proposed development. Public access is considered adequately provided for if all the following criteria are met:

**6.17 B. 1.** The access is part of a locally adopted parks, recreation and or public access plan.

**6.17 B. 2.** The general public has physical and visual access to access to the water

**6.17 B. 3.** Additional use of the access does not pose additional public safety hazard.

**6.17 B. 4.** The public access can accommodate anticipated additional uses and impacts as a result of the proposed residential development.

**6.17 B. 5.** An existing public access area is provided for on applicant's deed or parcel declaration(s) legally recorded at the County records.

**6.17 C.** Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion (e.g. geologically hazardous areas found in Appendix C) so that shoreline stabilization structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

**6.17 D.** Residential development or mixed use developments shall be sited so as to prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause

significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

## **6.18 Subdivision and Land Segregation**

Subdivisions and land segregations are legal divisions of land for the purpose of sale, lease, or transfer of ownership.

**6.18. A.** All proposed plats and lots, including assessor assigned subdivisions, whether for agricultural, residential, commercial or industrial uses or activities, should be of sufficient size that development will not cause the need for structural shoreline stabilization.

**6.18. B.** All proposed plats and lots, including assessor assigned subdivisions, should be designed with enough area to provide a building site with appurtenant uses (parking, outbuildings etc...), accessory utility needs and fire defensible space to meet the minimum bulk dimensional standards established in Chapter 8 for the shoreline designation within which the lot is located, without requiring shoreline variances.

**6.18. C.** Plats and subdivisions, including assessor assigned subdivisions, should be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

**6.18. D.** Plats and subdivisions, including assessor assigned subdivisions should prevent the need for new flood hazard reduction measures within the channel migration zone or floodway that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

## **6.19 Signs**

**6.19. A.** Signs to be placed or erected in shoreline jurisdiction should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses and in compliance with applicable local sign regulations.

**6.19. B.** Signs should not block or otherwise interfere with visual access to the water or shoreline areas.

**6.19. C.** Generally, signs should be of a permanent nature and be linked to the operation of existing or permitted uses. Temporary signs and interpretive signs related to shoreline functions should be allowed where they comply with the other policies of this SMP and, in the case of temporary signs, where adequate provisions are made for timely removal.

**6.19. D.** Signs attached to buildings are preferred over free-standing signs.

**6.19. E.** Lighting associated with signs should be stationary, nonblinking and nonrevolving. Signs should not be erected nor maintained upon trees, or drawn or painted upon rocks or other natural features and artificial lighting of signs should be directed away from adjacent properties and the water.

## 6.20 Utilities and Accessory Utilities

These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as water, sewer or gas lines to a residence, are "accessory utilities" and shall be considered a part of the primary use.

**6.20 A.** All utilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the shoreline character, protect water quality and habitats, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

**6.20 B.** Utilities that are non water-oriented including transmission facilities for communications, sewage treatment plants and power plants, or parts of those facilities should not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

**6.20 C.** Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

**6.20 D.** Existing rights-of-way and corridors should be used whenever possible to accommodate the location of utilities.

**6.20 E.** Whenever possible, utilities shall be located to minimize obstructions of views and vistas. This includes, but is not limited to, views of the shoreline environment from the water, views of the water from shorelines, and views extending beyond the shoreline of other scenic features of local importance such as rock walls, talus slopes, cliffs and perches from the shoreline or water. To preserve views and vistas and shoreline character, placement of utilities underground shall be preferred and mitigated as appropriate with vegetation measures.

**6.20 F.** Accessory utilities necessary to serve shoreline uses should be properly installed so as to protect the shoreline and water from contamination and degradation.

**6.20 G.** Accessory utilities and associated rights-of-way should be located outside the shoreline area to the maximum extent feasible, complying with shoreline setbacks and/or buffers whichever are more protective. When utility lines require a shoreline location, they should be placed underground.

**6.20 H.** Accessory utilities 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.

**6.20 I.** Accessory utilities should be designed and located to eliminate the need for topping or pruning trees.

**6.20 J.** Wherever possible, existing utility systems should be improved to enhance shoreline appearance and use.

## **6.21 Shoreline Modifications**

Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, dredging (shoreline modification) to allow for a marina (boating facility use). All shoreline uses and activities, even those that are exempt from the requirement to obtain a shoreline substantial development permit, and regardless of the Shoreline Designation in which they are undertaken, must conform to all of the applicable policies and regulations listed in this SMP. For example, a residential development project that included docks and roads would need to comply with the policies and regulations related to docks and roads as well as those related to residential development.

Shoreline Modification Policies cover the following areas (see Chapter 8, Section 8.03 for specific regulations):

- 6.21 A. General**
- 6.21 B. Clearing and Grading**
- 6.21 C. Dredging and Dredge Material Disposal**
- 6.21 D. Fill**
- 6.21 E. Shoreline Stabilization**
- 6.21 F. Bulkheads**
- 6.21 G. Breakwaters, Jetties, Groins & Weirs**
- 6.21 H. Vegetation Conservation and Management**

## **6.21 A. General**

- 6.21 A. 1.** The provisions of this section apply to all shoreline modifications within all shoreline areas.
- 6.21 A. 2.** All shoreline modifications should be in support of an allowed shoreline use that is in conformance with the provisions of this master program.
- 6.21 A. 3.** Shoreline modifications should cause as few environmental impacts as possible and should be limited in size and number.
- 6.21 A. 4.** The type of shoreline and the surrounding environmental conditions should be considered in determining whether a proposed shoreline modification is appropriate.
- 6.21 A. 5.** Projects that include shoreline modifications should contribute to enhancement of shoreline ecological functions, when possible.
- 6.21 A. 6.** As shoreline modifications are allowed to occur, measures to protect and restore ecological functions should be implemented.
- 6.21 A. 7.** Development, uses and modifications should plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
- 6.21 A. 8.** Shoreline developments, uses and modifications should avoid and reduce significant ecological impacts according to the mitigation sequence in WAC [173-26-201](#) (2)(e).
- 6.21 A. 9.** Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

## **6.21 B. Clearing and Grading**

Clearing and grading are activities associated with developing property for a particular use. Specifically, "clearing" means the destruction, uprooting, scraping, or removal of vegetative ground cover, shrubs, and trees. "Grading" means the physical manipulation of the earth's surface and/or surface drainage pattern without significantly adding or removing on-site materials. "Fill" means placement of dry fill on existing dry or wet areas and is addressed later in this chapter.

Clearing and grading are regulated because they may increase erosion, siltation, runoff, and flooding, change drainage patterns; reduce flood storage capacity; and damage habitat. All clearing and grading within areas under shoreline jurisdiction, even that which does not require a permit, must be consistent with the Shoreline Management Act, the Department of Ecology rules implementing the Act, and the goals, policies, and regulations of this Master Program.

**6.21 B. 1.** Clearing and grading activities should only be allowed in association with an allowed shoreline use.

**6.21 B. 2.** Clearing and grading in shoreline areas should be limited to the minimum necessary to accommodate permitted shoreline development.

**6.21 B. 3.** Clearing and grading should be discouraged in required shoreline setbacks.

**6.21 B. 4.** All clearing and grading activities should be designed and conducted to minimize sedimentation and impacts to shoreline ecological functions, including wildlife habitat functions and water quality. Negative environmental and shoreline impacts of clearing and grading should be avoided or minimized through proper site planning, construction timing and practices, vegetative stabilization or (where required) soft structural stabilization, use of erosion and drainage control methods, and by adequate maintenance.

**6.21 B. 5.** For clearing and grading proposals, a plan addressing species removal, re-vegetation, irrigation, erosion and sedimentation control, and other plans for protecting shoreline resources from harm should be required.

**6.21 B. 6.** After completion of construction, those cleared and disturbed sites should be promptly re-stabilized, and should be replanted as required by a mitigation management plan. Vegetation from the recommended list is preferred.

### **6.21 C. Dredging and Dredge Material Disposal**

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, and/or other materials or debris from any water body or associated shoreline or wetland. Dredging is normally done for specific purposes such as constructing or maintaining canals, navigation channels, or marinas, for installing pipelines or cable crossings, or for dike or drainage system repair and maintenance. Dredge material disposal is the depositing of dredge materials on land or into water bodies for the purposes of either creating new lands or disposing of the by-products of dredging. Dredge material disposal within shoreline jurisdiction is also subject to the filling policies later in this section.

**6.21 C. 1.** New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

**6.21 C. 2.** Dredging and dredge material disposal should be located and conducted in a manner that minimizes damage to existing ecological functions and processes, including those in the area to be dredged, at the dredge material disposal site, and in other parts of the watershed. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

**6.21 C. 3.** Dredging of bottom materials for the primary purpose of obtaining material for fill or other purposes should be prohibited, except when the material is necessary for the restoration of ecological functions.

**6.21 C. 4.** Dredging operations should be planned and conducted to minimize interference with water and shoreline uses, properties, and values.

**6.21 C. 5.** Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses, and then only when significant ecological impacts are minimized and when mitigation is provided.

**6.21 C. 6.** Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

**6.21 C. 7.** Dredge material disposal in water bodies should be discouraged, except for habitat improvement or where depositing dredge material on land would be more detrimental to shoreline resources than deposition in water areas.

**6.21 C. 8.** Where dredge material has suitable organic and physical properties, dredging operations should be encouraged to recycle dredged material for beneficial use in enhancement of beaches that provide public access, habitat creation or restoration, aggregate, or clean cover material at a landfill.

#### **6.21 D. Fill**

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands, including channel migration areas, in a manner that raises the elevation or creates dry land. Fill does not include sanitary landfills for the disposal of solid waste.

**6.21 D. 1.** Fills waterward of the ordinary high water mark should be allowed only when necessary to facilitate water-dependent use, public access, or cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement projects and -uses that are consistent with this master program.

**6.21 D. 2.** 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 water drainage, or flood waters that would result in a hazard to adjacent life, property, or natural resource systems.

**6.21 D. 3.** In evaluating fill projects, such factors as potential and current public use of the shoreline and water surface area, navigation, water flow and drainage, water quality, and habitat should be considered and protected to the maximum extent feasible.

**6.21 D. 4.** The perimeter of any fill 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.

**6.21 D. 5.** Where permitted, fills should be the minimum necessary to provide for the proposed use and should be permitted only when they are part of a specific development proposal that is permitted by this master program. Placing fill in water bodies or wetlands to create usable land should be prohibited.

### **6.21 E. Shoreline Stabilization**

Shoreline stabilization includes actions taken primarily to address erosion impacts to upland property and improvements caused by current, wake, or wave action. Those actions include structural, nonstructural, and vegetative methods.

Structural stabilization may be “hard” or “soft.” “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” stabilization, such as biotechnical vegetation measures, rely on softer materials. There is a range of measures from soft to hard that includes: upland drainage control, biotechnical measures, anchor trees, gravel placement, riprap, retaining walls, and bulkheads. Generally, the harder the stabilization measure, the greater the impact on shoreline processes.

Non-structural methods include placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, established building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization as established in this SMP.

Vegetative methods include re-vegetation and vegetation enhancement. In addition, vegetation is often used as part of structural stabilization methods; it is always part of biotechnical stabilization. For the purposes of this section, vegetative methods are considered to include only re-vegetation and vegetation enhancement.

**6.21 E. 1.** Stabilization measures should be designed, located, and constructed primarily to prevent damage to existing development.

**6.21 E. 2.** No structural stabilization measures should be allowed for a vacant lot.

**6.21 E. 3.** New development should be located and designed to eliminate the need for future shoreline stabilization.

**6.21 E. 4.** Shoreline vegetation, both on the bank and in the water, is very effective at stabilizing shorelines. For this reason, property owners are strongly encouraged to protect existing shoreline vegetation and restore it where it has been removed. Preserving and restoring shoreline vegetation should be the preferred method of shoreline stabilization.

**6.21 E. 5.** Structural solutions to shoreline erosion should be allowed only if non-structural and vegetative methods would not be able to reduce existing or ongoing damage.

**6.21 E. 6.** Public projects should be models of good shoreline stabilization design and implementation.

### **6.21 F. Bulkheads**

A bulkhead is a type of hard structural shoreline stabilization measure. Bulkheads are walls, constructed parallel to the shoreline and usually in contact with the water, whose primary purpose is to contain and prevent the loss of soil caused by erosion or wave action. A bulkhead-like structure used as part of the structure of a cantilevered dock is not regulated as a bulkhead as long as the width is no more than what is required to stabilize the dock.

**Exemption:** Certain bulkheads are exempt from the requirement to obtain a shoreline substantial development permit. However, all bulkheads must comply with the Shoreline Management Act, the rules implementing the Act, and this Master Program.

**6.21 F. 1.** A bulkhead is not a preferred method of stabilizing the shoreline, because bulkheads tend to significantly degrade fish and wildlife habitat by the removal of shoreline vegetation, increase erosion on neighboring properties, and change the natural sedimentation process.

**6.21 F. 2.** Cumulative impacts of bulkheads should be considered, since over time and as more shoreline is lost to bulkheading, the resulting loss of habitat may have long-term impacts on fish populations as well as to the overall ecological value of the shoreline.

**6.21 F. 3.** Most areas along the shorelines in ~~Okanogan County~~Pateros can be adequately stabilized using softer, more natural means, such as vegetation enhancement, rather than a bulkhead.

**6.21 F. 4.** If the purpose is not stabilization, a retaining wall, set back from shoreline vegetation, should be used rather than a bulkhead at the water's edge. (Retaining walls for purposes other than shoreline stabilization must comply with the setback and buffering requirements under the heading "Environmental Impacts and Water Quality" in Chapter 6 & 8 of this SMP.)

**6.21 F. 5.** Because a bulkhead on one property can accelerate erosion on adjacent properties, the impacts of a proposed bulkhead on adjacent properties should be analyzed and considered before the bulkhead is approved.

**6.21 F. 6.** A bulkhead should be allowed only for existing development for shoreline stabilization, and only if all more ecologically-sound measures are proven infeasible.

**6.21 F. 7.** Property owners are encouraged to remove existing bulkheads and restore the shoreline to a more natural state. As an incentive, such projects should be processed without a fee charged for the shoreline permit.

## **6.21 G. Breakwaters, Jetties, Groins & Weirs**

**6.21 G. 1.** Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs should be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC [173-26-201](#) (2)(e).

## **6.21 H. Vegetation Conservation**

Vegetation conservation includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. The intent of vegetation conservation is to provide habitat, improve water quality, reduce destructive erosion, sedimentation, and flooding; and accomplish other functions performed by plant communities along shorelines. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control, and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.

Vegetation conservation provisions are important for several reasons, including water quality, habitat, and shoreline stabilization. Shoreline vegetation improves water quality by removing excess nutrients and toxic compounds, and removing or stabilizing sediments. Habitat functions of shoreline vegetation include shade, recruitment of vegetative debris (fine and woody), refuge, and food production. Shoreline vegetation, especially plants with large root systems, can be very effective at stabilizing the shoreline.

Vegetation conservation regulations apply even to those uses that are exempt from the requirement to obtain any sort of shoreline permit.

**6.21 H. 1.** Natural plant communities within and bordering shorelines should be protected and maintained to ensure no net loss of shoreline ecological functions.

**6.21 H. 2.** Natural shoreline vegetation should be maintained and enhanced to reduce the hazard of bank failures and accelerated erosion. Vegetation removal that is likely to result in soil erosion severe enough to create the need for structural shoreline stabilization measures should be prohibited.

**6.21 H. 3.** Shoreline vegetation degraded by natural or manmade causes should be restored wherever feasible.

**6.21 H. 4.** Non-structural and “soft” methods of shoreline stabilization, such as vegetation enhancement and soil bioengineering, are preferred to hard structures to diminish the processes of erosion, sedimentation, and flooding.

**6.21 H. 5.** Removal of vegetation should be limited to the minimum necessary to reasonably accommodate the permitted use or activity.

**6.21 H. 6.** The physical and aesthetic qualities of the natural shoreline should be maintained and enhanced.

**6.21 H. 7.** Preference should be given to preserving and enhancing natural vegetation closest to the ordinary high water mark and within shoreline setback and buffer areas.

**6.21 H. 8.** Aquatic weed management should stress prevention first.

## CHAPTER 7: SHORELINE DESIGNATIONS

### Introduction

Shoreline Designations are intended to encourage uses and activities that will protect or enhance the present or desired character of a shoreline and allow appropriate uses consistent with local land use patterns. Pateros' Shoreline Master Program (SMP) was adopted in 1991. It used a classification system composed of four Shoreline Designations intended to accommodate different levels and types of development: "Natural", "Conservancy", "Rural", "Suburban", and "Urban."

The State's 2004 SMP guidelines recommended a new classification system to better reflect the most current scientific and technical information, planning concepts and to support requirements of the Growth Management Act (GMA). ~~The Pateros SMP is City and Town Regional Master Program uses~~ the State's new classification system as a starting point and tailored it to suit local conditions, local interests, and local land use planning. The result is a system that includes six Shoreline Designations intended for application to all shoreline areas within the city of Pateros and its Urban Growth Area.

The Shoreline Designation system in the Regional SMP, which formed the foundation for Pateros' SMP, is based on a combination of factors including ecological function and value, existence of designated critical areas, development and planning factors, and local interests. The designations reflect the combined results from the inventory, analysis and characterization described in Chapter 4 along with input gathered through the public participation process.

The assessment of ecological function and value was derived from the Shoreline Characterization prepared by ENTRIX, Inc., described in Chapter 4 of this SMP and incorporated as Appendix A.

Development and Planning factors are a function of:

- a. Development Patterns (parcel size and level of subdivision)
- b. Current land use
- c. Existing Building Setbacks and Number of Structures
- d. Public Access and Recreation
- e. Transportation/Circulation systems/facilities
- f. Current Comprehensive Plans and Zoning maps
- g. Local Knowledge (input from SAG and TAG + staff and consultants)
- h. Ownership Patterns
- i. Other built elements (Over-water Structures, levees, dikes)

This chapter describes the criteria used to assign Shoreline Designations to water bodies (the classification criteria), lists specific policies and regulations that apply to each designation, and explains the rationale for each designation. Finally, the text describes the process used to assign designations to the shorelines in Okanogan County and the incorporated municipalities therein. Allowed uses and development standards for each designation follow in tabular form. The

policies specific to each designation, along with relevant policies from Chapter 6 provide the basis for the uses and activities allowed in each shoreline designation. The development standards and criteria specify how and where permitted development can take place within each shoreline designation.

It is important to note that all lands within shoreline jurisdiction, regardless of designation, have inherent resource, ecological and economic value. Therefore, a natural tension exists between opportunities for protection and development. The SMA requires ecological functions and processes to be retained in all shoreline designations. Where changes in land use or development result in a loss of function and values, those losses must be mitigated.

## **Shoreline Designations**

This Shoreline Master Program establishes a system of six shoreline designations for all shoreline areas within the incorporated area and adopted Urban Growth Area for the city of Pateros. The system was derived from the State's recommended classification system, tailored to reflect local conditions and serve local interests.

**Table 7-1**

DESIGNATION	Aquatic	Natural
ABBREVIATION	A	N
PURPOSE	Protect, restore, and manage the unique characteristics and resources of areas waterward of the Ordinary High Water Mark (OHWM).	Provide the highest level of protection to shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use.
DESIGNATION CRITERIA	All shorelines areas waterward of the OHWM of rivers, lakes and streams and associated wetlands shall be designated "Aquatic."	<ul style="list-style-type: none"> <li>• The shoreline is <i>ecologically intact</i> and therefore currently performing an important, irreplaceable function or ecosystem-wide process that could be damaged by development over time;</li> <li>• The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest or are rare or fragile (for instance, an outcropping that contains fragile plant communities); or</li> <li>• The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.</li> </ul> <p>Such shorelines include largely areas such as wetlands, unstable bluffs, islands, and ecologically intact shoreline habitats (e.g. designated critical areas). Shorelines inside or outside incorporated municipalities and Urban Growth/Future Service Areas may be designated as "Natural."</p>

**Table 7-1, continued**

<b>DESIGNATION</b>	<b>Urban Conservancy</b>	<b>Shoreline Recreation</b>
<b>ABBREVIATION</b>	<b>UC</b>	<b>SREC</b>
<b>PURPOSE</b>	Protect and restore ecological functions of open space, floodplains, and other sensitive lands within incorporated municipalities or Urban Growth/Future Service Areas, while allowing a variety of compatible uses.	To accommodate mixed-use recreation-oriented development that is consistent with the goals and purpose of the Shoreline Management Act; and to provide appropriate public access and recreational uses, especially where those uses are part of a master-planned system and support healthy physical activity.
<b>DESIGNATION CRITERIA</b>	<p>Areas within Urban Growth/Future Service Areas that are suitable and planned primarily for public development that is compatible with maintaining or restoring the ecological functions of the area, and are not generally suitable for water-dependent uses, if any of the following characteristics apply:</p> <ul style="list-style-type: none"> <li>• They are suitable for water-related or water-enjoyment uses;</li> <li>• They are public<del>ally</del>-owned open space, flood plain or other critical areas that may be suited for low levels of development associated with water-related or water-enjoyment uses but are unsuitable for high intensity development;</li> <li>• They have potential for ecological restoration; or</li> <li>• They retain important ecological functions (such as riparian or wetland habitat, buffers, stormwater and wastewater abatement, and open space – e.g. designated critical areas) even though partially developed.</li> </ul>	Assigned to shoreline areas that support or are planned for mixed-use recreation oriented development. The designation is intended to provide flexibility for water oriented mixed-use planned or clustered development with varying densities.

**Table 7-1, continued**

DESIGNATION	Shoreline Residential	High Intensity
ABBREVIATION	SRES	HI
PURPOSE	To accommodate residential development and appurtenant structures that are consistent with the goals and purpose of the Shoreline Management Act; and to provide appropriate public access and recreational uses.	Provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded and are planned for such uses.
DESIGNATION CRITERIA	Assigned to shoreline areas within incorporated municipalities or Urban Growth/Future Service Areas that support a predominance of single-family residential development with some duplex and multi-family, are platted for residential development, or are planned for residential development exceeding 1 dwelling unit per acre.	Shoreline areas within incorporated municipalities and Urban Growth/Future Service Areas shall be designated “High Intensity” if they currently support high-intensity uses related to commerce, transportation, or navigation; or are suitable or planned for high-intensity water-oriented uses, including multi-family residential development.

Parallel ~~environments-shoreline designations may behave been~~ used where appropriate—for example, to accommodate resource and critical areas protection close to the ordinary-high-water-mark (OHWM) and development farther from the OHWM. Where parallel ~~environments designations~~ exist, developments and uses allowed in one of the ~~environments-designations~~ should not be inconsistent with achieving the purposes of the other. The width of each ~~environment-designation~~ may vary depending on the ~~ownership~~, type, extent, and value of the resource to be protected; in all cases the ~~environment-designation~~ closest to the shore shall extend at least to the closest boundary line, easement line and/or 15 feet inland from the OHWM. For future shoreline amendments in all cases the designation closest to the shore shall maintain a structural setback/vegetation conservation area at least as wide as the minimum width allowed by the current Ecology approved shoreline designation. Any applicant proposing widths less than this shall provide the ~~local government~~ City an analysis in compliance with WAC 173-26-201.

## **Policies for Designations**

### **Aquatic (A) Designation**

1. Developments within the Aquatic Designation should be compatible with the adjoining upland designation.
2. Diverse opportunities for public access to the water should be encouraged and developed where such access is compatible with the existing shoreline and water uses and environment.
3. Over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration. The size of such structures should be limited to the minimum

necessary to support the structure's intended use. Structures that are not water-dependent should be prohibited.

4. Multiple-use of over-water facilities should be encouraged.
5. Under-water uses should be designed, developed, operated and mitigated with the least possible impact to the aquatic environment and should show that there is no feasible above water alternatives.
6. Aquaculture should be allowed where the use can be undertaken without interfering with surface navigation, public access, or shoreline ecological functions.
7. Hydroelectric projects of regional or statewide significance (including development of new hydroelectric projects, renovation of existing hydroelectric facilities, and operation of existing hydroelectric projects) should be allowed where impacts to surface navigation, public access, shoreline ecological functions, and the visual quality of the shoreline area can be adequately mitigated.
8. Fishing and other recreational uses of the water should be protected against competing uses that would interfere with recreation.
9. All developments and activities under the jurisdiction of this SMP should be located and designed to minimize interference with surface navigation. Hydroelectric projects licensed by the Federal Energy Regulatory Commission should provide for portage consistent with project operations, safety, and security of the project facilities.
10. All developments and activities using water bodies under the jurisdiction of this SMP should be located and designed to minimize adverse visual impacts and to allow for the safe passage of fish and animals (consistent with federal and state agency approved recovery plans), particularly those whose life cycles are dependent on such migration. Hydroelectric projects licensed by the Federal Energy Regulatory Commission should address visual impacts and fish and wildlife passage while at the same time providing for project operations, safety, and security of the project facilities.
11. Uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
12. Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, or welfare should be removed or restored to a usable condition consistent with the provisions of this master program.
13. Activities that substantially degrade priority habitats should not be allowed. Where such activities are necessary to achieve the objectives of the Shoreline Management Act, RCW 90.58.020, their impacts should be mitigated to provide a net gain of critical ecological functions.
14. Shoreline modifications should be considered only when they serve to protect or enhance a significant, unique, or highly valued feature that might otherwise be degraded or destroyed. Exceptions may be made for hydroelectric projects licensed by the Federal

Energy Regulatory Commission. Such projects should be located and designed to minimize impacts to shoreline functions and values.

15. Shoreline jurisdictional areas within the Aquatic Designation shall not be used for calculating land area for the purposes of subdivision and short subdivision.

### **Natural (N) Designation**

1. Physical alterations, including shoreline modifications, should only be considered when they serve to protect or enhance a significant, unique, or highly-valued feature that might otherwise be degraded or destroyed.
2. Limited access should be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes, provided that no significant adverse impact on the area will result.
3. A conditional use permit should be required for any non-exempt or non water-oriented use or activity.
4. Any use that would substantially degrade the ecological functions or natural character of the shoreline, including new development or vegetation removal that would reduce the capability of vegetation to perform normal ecological functions, should be prohibited.
5. The following uses should not be allowed in areas designated “Natural”: residential uses; commercial, municipal and industrial uses; mining (except exempt prospecting); agriculture; non-water-oriented medium and high impact recreation; golf courses; and roads, utility corridors, and parking areas that can be located elsewhere.
6. Restoration of degraded shorelines should be encouraged.

### **Shoreline Recreation (SRec) Designation**

1. The following uses should be allowed in shoreline areas designated as “Shoreline Recreation”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: residential development; public access and recreational uses; water-oriented mixed-use development; master-planned resorts, and other development consistent with preservation of low-density recreation-oriented character.
2. Dedication and improvement of public access to shorelines should be required for all new uses, with the exception of residential developments of four lots or fewer, including development by public entities (including local governments, state agencies, and public utility districts). Where a master-planned public access system, such as a lakeshore trail system, exists or is planned, participation in the system and provision of facilities that promote physical activity should be encouraged.
3. All multi-family and multi-lot residential developments should provide joint-use community recreational facilities.

4. Docks, boat ramps, boat lifts, and other boating facilities serving individual single-family residences should be prohibited. Where boating facilities are allowed, community facilities should be required.
5. The number of boating facilities allowed within the SRec designation on each water body should be limited to protect shoreline ecological resources and preserve the character of the shoreline area.
6. Mixed-use water-oriented recreational/residential developments should be encouraged in the SRec designation where such developments are consistent with zoning and comprehensive plan designations and can be accommodated without damage to shoreline ecological resources.
7. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical areas protection, and water quality should be set to ensure that new development does not result in a net loss of shoreline ecological functions. Such standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and other services available, and other comprehensive planning considerations.
8. Adequate public facilities and services should be required in conjunction with development in the SRec designation. Within Urban Growth/Future Service Areas, such development should be required to connect to municipal water and sewer utilities. Outside of Urban Growth/Future Service Areas, private community utility systems may be allowed. Concurrent development of transportation facilities, including facilities to promote physical activity, should be required.
9. Subdivision should be allowed in shoreline areas designated as “Shoreline Recreation.”

### **Urban Conservancy (UC) Designation**

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands, either directly or over the long term, should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment, the setting, and the local comprehensive plan and development regulations.
2. The following uses should be allowed in shoreline areas designated as “Urban Conservancy”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: aquaculture; low-intensity water-oriented commercial and industrial uses, where those uses already exist; water-dependent and water-enjoyment recreational facilities; residential development.
3. Mining and associated uses should be allowed on lands that are designated as “mineral resource lands” pursuant to RCW 36.70A.170 and WAC 365-190-070. Otherwise resource extraction should not be allowed.
4. Water-oriented uses should be given priority over non-water oriented uses.

5. Adjacent to shoreline waters, water-dependent uses should be given the highest priority.
6. Opportunities for public access, including developed trails, overlooks and viewing platforms, etc..., to shorelines and water bodies should be encouraged for all developments, including subdivisions, short subdivisions, planned unit developments, commercial uses, public services, and recreational uses.
7. Public or community access to shorelines and water bodies should be required for new subdivisions of more than four lots and for recreational uses, provided any adverse impacts can be mitigated.
8. Public access to shorelines and water bodies should be required for new commercial uses and public services where it can be accommodated without risk to public safety, provided any adverse impacts can be mitigated.
9. Public and private recreational facilities and uses that are compatible with residential uses should be encouraged, provided that no net loss of shoreline ecological resources will result.
10. Standards to ensure that new development does not result in a net loss of shoreline ecological functions or further degradation of shoreline values should be established for shoreline stabilization measures, vegetation conservation, and shoreline modifications.
11. Subdivision should be allowed in shoreline areas designated as “Urban Conservancy.”

### **Shoreline Residential (SRes) Designation**

1. The following uses should be allowed in shoreline areas designated as “Shoreline Residential”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: residential development (including both single and multi-family development); water-oriented commercial uses. .
2. Residential developments of more than four lots and all recreational developments should provide public access to shorelines and water bodies. Opportunities for public access to shorelines and water bodies should be encouraged for all other developments, including subdivisions, planned developments, commercial uses, and public services.
3. All multi-family and multi-lot residential developments should provide joint-use community recreational facilities.
4. Docks, boat ramps, boat lifts, and other boating facilities serving individual single-family residences should be prohibited. Where boating facilities are allowed, community facilities should be required.
5. Public and private recreational facilities and uses that are compatible with residential uses and with the applicable comprehensive plan and development regulations should be allowed.

6. Access (including transportation facilities and rights of way or easements), utilities, and public services should be available and adequate to serve any existing needs and planned future development.
7. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical areas protection, and water quality should be set to ensure that new development does not result in a net loss of shoreline ecological functions. Such standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and other services available, and other comprehensive planning considerations.
8. Subdivision should be allowed in shoreline areas designated as “Shoreline Residential.”

### **High Intensity (HI) Designation**

1. Although they are among the most heavily developed shoreline lands in Okanogan County, High Intensity lands retain resource value and present opportunities for protection and restoration.
2. Because shorelines are a finite resource and because high-intensity uses tend to preclude other shoreline uses, emphasis should be given to directing new development into areas that are already developed or where high-intensity uses can be developed consistent with this master program and the applicable Comprehensive Plan, and to uses requiring a shoreline location. Full utilization of existing high-intensity areas should be encouraged before further areas are designated as High Intensity.
3. Priority should be given to water-dependent, water-related, and water-enjoyment uses over other uses, with highest priority given to water-dependent uses. Uses that derive no benefit from a water location should require a shoreline conditional use permit.
4. Where consistent with other policies and with local comprehensive plans and development regulations, the following uses should be allowed in shoreline areas designated as “High Intensity”, provided that the use is consistent with maintaining or restoring the ecological functions of the area: water-oriented commercial uses, transportation, navigation, and other high-intensity water-oriented uses, including multi-family residential development.
5. Visual public access should be required, where feasible.
6. Physical public access should be encouraged where it can be accommodated without risk to public safety.
7. Aesthetic objectives should be implemented by means such as sign control regulations; appropriate development siting, screening and architectural standards; and maintenance of natural vegetative buffers.
8. Implementation of local plans for acquisition or use through easements of land for permanent public access to the water in the High Intensity Environment should be encouraged.

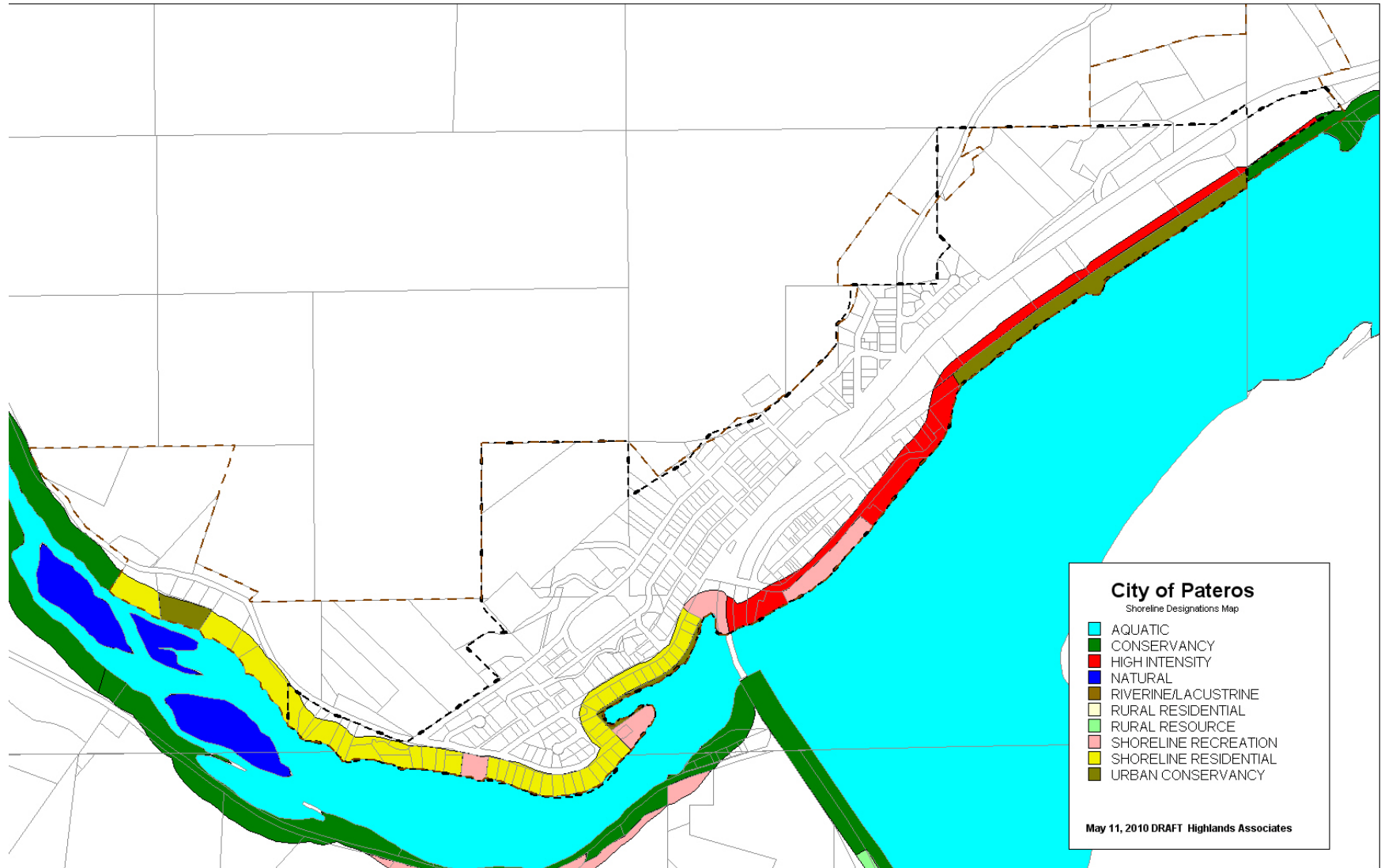
9. In order to make maximum use of the available shoreline resources and to accommodate future water-oriented uses, the redevelopment and renewal of substandard, degraded, under-used, or obsolete urban shoreline areas should be encouraged.
10. Subdivision should be allowed in shoreline areas designated as “High Intensity.”

## **Shoreline Designations Map**

The *Shoreline Designations* map for the city of Pateros shows the area under the jurisdiction of this SMP and the boundaries of the five shoreline designations. Shoreline areas within Urban Growth Area have been pre-designated—that is, the shoreline designations shown in Urban Growth Area are those that have been assigned by the city of Pateros.

The *Shoreline Designations* map shall be the official map of Shoreline Designations and is maintained by the city of Pateros and by the Department of Ecology. Any other copies, including copies that may be distributed either as part of this Shoreline Master Program or separately, shall be unofficial.

The Pateros Shoreline Designations Map is found on the following page:



## Designation process

This section describes the process by which shoreline areas were designated during the development of this SMP. All shoreline areas, both within and outside of the incorporated municipalities, were designated following this process. In the future, new shorelines may be created, or existing shorelines may come under SMP jurisdiction. The SMP guidelines provide for automatic designation of shorelines that are not designated when the SMP is developed. The guidelines (WAC 173-26-211(2)(e)) state:

“The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "urban conservancy" designation if within a municipality or urban growth or future service area...until the shoreline can be re-designated through a master program amendment.”

Shorelines newly under the jurisdiction of this SMP will be designated “Urban Conservancy” as soon as they are created. They will then be mapped, and, once mapped, assessed using the designation criteria above. The assessment will determine whether the “Urban Conservancy” designation is appropriate or should be changed. Once the correct designation has been determined, the SMP will be amended to include the new shoreline areas.

The purpose of the designation process is to assign each shoreline designation an appropriate set of development standards and uses to prevent loss of shoreline function and protect navigation and public access while allowing for reasonable use of the city’s ~~or town’s~~ shorelines. The characterization process in Chapter 4 recognizes the range of habitats, physical formations, varying land uses, and development patterns throughout the shoreline area, and the designations are intended to reflect the existing diversity.

Shorelines in the cities and towns were designated using a five-step process. Each step can be a considered a sieve that narrows down options for designation based on the shoreline characterization (specifically, the scores derived from the ecosystem function analysis and the planning and development factors) described in Chapter 4.

### ***Step 1: Assign Preliminary Designation based on Ecological Characterization Score***

The first step of the designation process relied on assigning a preliminary designation based exclusively on the ecosystem function score from the characterization. The ecosystem function analysis produced a suite of scores that depicted shorelines ranging from high resources/high condition to low resources/low condition. The first step led to a preliminary designation of “Natural” for all reaches that exhibited high/high scores, and a “Conservancy” designation for all other combinations of resources and conditions scores. The purpose of this step was to identify and protect ecologically intact shorelines.

***Ecologically intact shorelines***, as used here, means those shoreline areas that retain the majority of their natural shoreline functions and values, as evidenced by the physical condition of the shoreline and presence of native flora and fauna (e.g. designated critical areas). Such shorelines

will generally have scored high along both the condition *and* resources axes in the AU characterization quadrant analysis. Generally, but not necessarily, ecologically intact shorelines are relatively free of structural shoreline modifications, structures, and intensive human uses. In riparian and lacustrine zones, they generally support native vegetation. The active channel and floodplains of ecologically intact shorelines of rivers should be able to support complex river dynamics such as channel migration, riparian recruitment, flooding, sediment transport and delivery, large woody debris deposition and recruitment, and aquatic and terrestrial habitat. Recognizing that there is a continuum of ecological conditions ranging from near-natural conditions to totally degraded and contaminated sites, the term “ecologically intact” is intended to describe those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Shorelines that scored in the ecological function analysis were initially considered to be ecologically intact. Such shorelines were designated “Natural.” Other combinations of resource and condition scores were assigned to a preliminary “Conservancy” category as they represented environments that were not as robust as ecologically intact shorelines (although still be providing some level of function and value).

### ***Step 2: Assign National Forest Preliminary Designations***

This SMP is required to designate all shoreline areas within the unincorporated portions of the county, including publicly owned lands. It is important to note that privately-owned lands within the Forest boundary, as well as Forest Service lands leased for private use, are subject to the provisions of this SMP.

The characterization analysis in Chapter 4 did not include water bodies wholly within the National Forest Boundaries. Therefore, shorelands owned and administered by the U.S. Forest Service were assigned a "Natural" designation when the shoreline area did not include any campgrounds or roads. Those portions of shorelines where roads or campgrounds do exist received a “Conservancy” designation. Shorelines owned and administered by the U.S. Forest Service were not further designated.

### ***Step 3: Evaluate Preliminary Designation against Current (1987) Designation***

The preliminary designations derived in Step 1 were further narrowed based on consistency with the existing shoreline designations (most municipalities adopted their own SMP’s in 1990 and 1991). The designations that were in place when this SMP was adopted reflect a pattern of development along the shoreline that has developed based on regulations that have been in place for over 20 years. Therefore, areas that maintained a “Natural” or “Conservancy” designation over time were assumed to be consistent with 1991 designations. When this consistency was identified a match between current and preliminary designations occurred and the “Natural” or “Urban Conservancy” designation was applied.

To determine where a “match” occurred, a GIS layer of the current (1991) designations was overlaid with the preliminary designation derived in Step 1 to establish areas where the designation was consistent. The purpose of this step was to identify areas that, based on the

quadrant score, would retain the same designation. Only one “Natural” designation resulted in a match. However, a number of “Conservancy” (now Urban Conservancy) designations were maintained.

#### ***Step 4: Tabulate Possible Draft Designations based on Existing and Preliminary Designations***

The overlay process in Step 3 led to an array of possible combinations between the current and preliminary designations. To evaluate what designations were available for assignment, a table was created to narrow the decision process. That table shows an array of designation options based on ecological function score and the shoreline designation in place at the time this SMP was developed. The next step uses the designation criteria and planning factors to assign final draft designations.

#### ***Step 5: Assign Draft Designation Based on Planning Factors and Criteria***

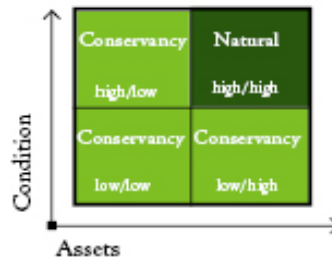
The final step in process for assigning draft shoreline designations required a review of the results of the initial four steps balanced against the functional score and various planning and land use issues. Each shoreline designation has a list of criteria required for assignment including factors such as ecological condition (e.g. existence of designated critical areas), existing and future land use, subdivision patterns, ownership, existing shoreline designation, etc... To arrive at final designations, the criteria were evaluated alongside the planning factors for consistency. Where conflicts existed between the selected designation and ecological function score, such conflicts were noted and considered in development of regulations for that designation.

## Okanogon County SMP Environmental Designation Process

developed by Highlands Associates

### STEP 1: ASSIGN PRELIMINARY DESIGNATION

Assign each Analysis Unit (AU) a preliminary designation of *Natural* or *Conservancy* based on ecological condition and asset score derived from the Characterization



### STEP 2: ASSIGN NATIONAL FOREST PRELIMINARY DESIGNATIONS

Assign AUs in National Forest a *Natural Designation* if inaccessible by roads.  
 Assign AUs in National Forest *Conservancy Designation* if roaded or partially developed

### STEP 3: EVALUATE PRELIMINARY DESIGNATIONS AGAINST CURRENT SMP

Overlay current SMP designations (1975) with new preliminary designations (step 1) and look for matches to see where new *Natural* or *Conservancy* AU fall. Retain designation if current SMP is the same as preliminary, ie no change in designation. Refer to STEP 4 if no match occurs. See examples below:



### STEP 4: ASSIGN POSSIBLE DRAFT DESIGNATION BASED ON ABOVE COMBINATIONS AS PER TABLE

CURRENT	PRELIMINARY	PRELIMINARY
	NATURAL	CONSERVANCY
NATURAL	match: Natural	Riverine, Conservancy
RURAL	Natural, Riverine, Rural Conservancy or Conservancy	Rural Conservancy, Riverine, Conservancy, Shoreline Residential, Shoreline Recreation
CONSERVANCY	Natural, Riverine or Conservancy	match: Conservancy
SUBURBAN	Urban Conservancy, Shoreline Residential	Urban Conservancy, Shoreline Residential, High Intensity
URBAN	Urban Conservancy	Urban Conservancy, Shoreline Residential, High Intensity

### STEP 5: FINALIZE DESIGNATION BASED ON REVIEW OF PLANNING FACTORS: existing land use patterns, zoning, or comp plan designation, flood plain extent, potential for channel migration, bankd steepness, ownership

- Land use patterns: review level of subdivision, comp plan and sub-area land use designations, anticipated development (known applications or plats), number and type of structures in AU, setbacks, current uses (based on DOR use codes), and zoning (within UGAs).
- Flood plain extent: if river exhibits wide flood plain or channel migration is possible, assign Riverine, Natural, or Conservancy
- Bank Steepness: if river is incised and erosion potential low, assign Conservancy, Rural Conservancy, Shoreline Recreation or Shoreline Residential
- Ownership: if AU falls primarily in public ownership, including the PUD, assign Conservancy or Shoreline Recreation
- Criteria: check criteria of SMA Designations for consistency

## **CHAPTER 8**

### **REGULATIONS FOR ALL SHORELINE USES, ACTIVITIES AND DESIGNATIONS**

#### **Introduction**

The regulations in this chapter are intended to implement the Shoreline Goals and Policies (See Chapter 6) and the shoreline-designation-specific policies (See Chapter 7).

All shoreline uses and activities, even those that are exempt from the requirement to obtain a shoreline substantial development permit, and regardless of the Shoreline Environment in which they are undertaken, must conform to all of the applicable policies and regulations listed in this SMP. For example, a residential development project that includes docks and roads needs to comply with the policies and regulations related to docks and roads, clearing and grading as well as those related to residential development.

#### **Sections**

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**8.01 A. General**

**8.01 B. Critical Areas**

**8.01 C. Flood Hazard Reduction**

##### **8.02 Use and Designation Specific Regulations**

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**8.02 N. Residential**

**8.02 O. Subdivision**

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## **8.03 Shoreline Modification Regulations**

**8.03 A. General**

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**8.03 C. Dredging and Dredge Material Disposal**

**8.03 D. Fill**

**8.03 E. Shoreline Stabilization**

**8.03 F. Bulkheads**

## 8.01 General Regulations

The following regulations apply to all shoreline uses and activities in all shoreline designations, unless otherwise noted.

### 8.02 A. 1. General

**8.01 A. 1.** Regulation of private property to implement any SMP goals such as public access and protection of ecological functions must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes.

**8.01 A. 2.** Rights reserved or otherwise held by Indian Tribes pursuant to Treaties, Executive Orders, or Statutes, including right to hunt, fish, gather, and the right to reserved water, shall not be impaired or limited by any action taken or authorized by the City under its Shoreline Master Program, and all rights shall be accommodated.

**8.01 A. 3.** All development or use activity which occurs within the shoreline areas of Pateros, whether it requires a permit or not, must be consistent (in design, development and operation) with the intent of the Act, conform to chapter RCW 90.58, the Shoreline Management Act, this master program, current comprehensive plans, all applicable local regulations (including current zoning, floodplain, subdivision, SEPA, health, sanitation, and building ordinances or codes), and any applicable state and federal regulations.

**8.01 A. 4.** Emergency construction may be permitted subject to WAC 173-27-040(2)(d) (“Developments exempt from substantial development permit requirement”), when, as determined by Okanogan County Emergency Services or other formally designated local official in consultation with the Shoreline Administrator, that life and/or property is in danger. Emergency construction must be consistent with the policies of chapter [90.58](#) RCW and this master program and with the regulations for Shoreline Modification (Section 8.03), including Shoreline Stabilization (Section 8.03 E), herein. Prior to emergency construction, the landowner must agree that, upon abatement of the emergency situation any new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter [90.58](#) RCW, WAC 173-27, or this master program shall be obtained. Mitigation pursuant to consultation with appropriate resource agencies shall be required for any permit issued after an emergency action. Regular flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

**8.01 A. 5.** The provisions of this Master Program do not require modification of or limitations on agricultural activities legally underway on agricultural lands as of the date of adoption of this SMP.

**8.01 A. 6.** All shoreline and shoreland uses and activities shall be located and designed to minimize or prevent the need for shoreline stabilization measures, flood protection works, filling, or substantial site re-grading. The use of car bodies, scraps of building materials, tires, asphalt or concrete from street work, or any discarded pieces of equipment, appliances or other debris for the stabilization of shorelines is prohibited. See Shoreline Modification Regulations (Section 8.03), for specific shoreline stabilization regulations and standards.

**8.01 A. 7.** The disposal or dumping of solid waste is strictly prohibited in all shoreline and shoreland areas, except in litter containers, which shall be regularly emptied, with the contents collected for transportation to an approved sanitary landfill or transfer station.

**8.01 A. 8.** Dumping and/or burning of residential, commercial or municipal yard waste within the Zone 1 Vegetation Buffer of the shoreline setback is prohibited in all shoreline designations.

**8.01 A. 9.** Where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost, bridges, utility lines, and other public utility and transportation structures may be allowed within the channel migration zone or floodway. Where such structures are allowed, mitigation shall address impacted functions and processes throughout the affected water body, including effects upstream and downstream of the project site, and shall be adequate to ensure no net loss of shoreline ecological function. Impacts to views and vistas must also be mitigated.

**8.01 A. 10.** No development designed for human habitation (e.g. houseboats, floating homes or cantilever type construction) is permitted on or over water.

**8.01 A. 11.** All shoreline development shall be conducted so as to minimize the effects on water quality from the addition of suspended solids, leaching of contaminants, or disturbances to habitat, and shall be consistent with this Master Program as well as the requirements of applicable regulatory agencies, including but not limited to the Washington departments of Ecology and of Fish and Wildlife and the U. S. Army Corps of Engineers. See following sections for activity specific regulations and standards.

**8.01 A. 12.** In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring habitats and species.

**8.01 A. 13.** All uses and activities, including those exempt from the requirement to obtain a shoreline substantial development permit, shall adhere to all required setbacks and other development standards, and shall retain all required buffers, in accordance with the provisions of this master program unless the use or activity is granted a variance.

**8.01 A. 14.** Lot frontage shall be measured along the OHWM.

**8.01 A. 15.** Lot coverage is the percentage of the parcel to be covered with impervious surfaces consistent with local zoning regulations.

**8.01 A. 16.** No new development shall be allowed in wetlands, shoreline vegetation conservation areas or their buffers without following mitigation sequencing as regulated by Section 11.01(B)(3)(h)(1) unless exempted by the SMP.

**8.01 A. 17. Vegetation Conservation**

**8.01 A. 17. a.** Restoration or enhancement of any shoreline area that has been disturbed or degraded shall use plant materials from the recommended list (Appendix E) or other species approved by agencies or organizations operating within the jurisdiction, such as the departments of Ecology, County Extension, Fish and Wildlife or the Native Plant Society.

**8.01 A. 17. b.** Stabilization of erosion-prone surfaces along shorelines shall primarily use vegetative, non-structural means and shall comply with the provisions of Section 8.03 E. More intensive measures may be permitted providing the project will result in no net loss in shoreline function.

**8.01 A. 17. c.** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited. This does not preclude the removal of noxious weeds, provided a mitigation management plan is submitted and approved.

**8.01 A. 17. d.** Weed abatement shall comply with all provisions of this SMP.

**8.01 A. 17. e.** Non-destructive pruning and trimming of vegetation for maintenance purposes shall be

permitted in compliance with View Corridor provisions of Section 8.02 K. 1. u.

**8.01 A. 17. f.** Permits issued for projects in ecologically degraded areas shall include a condition that appropriate shoreline vegetation shall be planted or enhanced, to contribute to the restoration of ecological processes and functions.

**8.01 A. 17. g.** If weather does not permit immediate restoration of disturbed areas, replanting shall be completed during the next planting season, and the soil shall be protected until replanting is complete.

**8.01 A. 17. h.** Vegetation from the recommended list (Appendix E) or other species authorized by the local government with jurisdiction shall be used. Native plants are preferred. Plants that may compromise shoreline values shall be prohibited. If necessary, a temporary sterile cover crop (e.g., a sterile non-persistent member of the grass family such sterile Triticale, barley, or oats) shall be planted to prevent erosion during the establishment period; said cover crop shall be maintained until the permanent vegetation is sufficiently established to prevent erosion.

**8.01 A. 17. i.** Replanted areas shall be maintained until desired vegetation is well established (a minimum of three years). In the case of transportation, utility, or other capital facility construction, the agency or developer constructing the facility shall also be responsible for maintaining the vegetation until it is established.

**8.01 A. 18.** Non-Wetland Setbacks and buffers (for wetland buffers see Section 8.01 B. 3. e.):

**8.01 A. 18. a** Shoreline buffers<sup>1</sup> in shoreline areas shall be comprised of a vegetation and use buffers as follows:

**8.01 A. 18. a. 1)** Zone 1 -Vegetation Buffer. The area one-half the distance of the setback (setbacks are listed in Table 8.1), in all shoreline areas is designated as a Vegetation Buffer. The vegetation buffer serves as restrictive protection zone for all shoreline functions and values in general and fish and wildlife habitat specifically. In these areas, existing native vegetation or vegetation from the recommended list (Appendix E) must be maintained and protected, except as provided for in Public Access – View Corridor Provisions (Section 8.02 K. 1. u.) and Shoreline Modification Regulations - General (Section 8.03A), Clearing and Grading (Section 8.03 B).

**8.01 A. 18. a. 2)** Zone 2 - Use Buffer. The area between the Zone 1 Vegetation Buffer and setback line (setbacks are listed in Table 8.1) in all shoreline areas is designated as Zone 2 Use Buffer. In these areas, removal of existing native vegetation shall be limited as provided in Table 8.1 and uses limited to low intensity recreation, agricultural, accessory residential uses and accessory water-dependent and accessory water-related commercial uses.

**8.01 A. 18. b** Measurement:

**8.01 A. 18. b. 1)** All setbacks and Zone 1, Vegetation buffers<sup>2</sup> shall be measured on a horizontal plane from the ordinary-high-water-mark (OHWM) or from the side property line as appropriate.

**8.01 A. 18. b. 2)** Zone 2, Use buffers shall be measured on a horizontal plane from the landward side of the vegetation buffer.

**8.01 A. 18. c.** All non-wetland buffers, lot frontage and lot coverage requirements shall be as set forth in Table 8.1, except as follows or noted as exempt in Section 8.01 A. 18. d. below):

**8.01 A. 18. c. 1)** Standard shoreline setbacks and/or Zone 1 or 2 buffers and/or lot coverage may be

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1 - Shoreline buffers in this SMP shall serve as Riparian fish and wildlife habitat buffers.

2 - Vegetation buffers are required for all shoreline developments in all environments.

reduced by using procedures set forth in Section 8.01(A)(18)(c)(2) Buffer width averaging or in 8.01 A. 18. c. 3) Administrative buffer reduction. Lot coverage may be increased by using Section 8.01 A. 18. c. 4) Administrative Lot Coverage Increase.

**8.01 A. 18. c. 2)** Administrative Buffer Width Averaging. The total required shoreline buffer (Zone 1+ Zone 2) width may be modified by the Administrator for existing lots of record in place at the time of adoption of this Program by averaging buffer widths based on a critical areas report, mitigation management plan prepared by a qualified professional. A SEPA document may also be required depending on SEPA requirements found in WAC 197-11 and Pateros's Municipal Code Chapter 14. Buffer width averaging shall only be allowed where the applicant demonstrates all of the following:

- i. The project site and adjoining area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
- ii. The width averaging shall not adversely affect the project site and adjoining area and buffer's functional value;
- iii. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging unless a standard reduction is permitted through an administrative reduction as specified in Administrative Buffer Reduction (Section 8.01 A. 18. c. 3));
- iv. The minimum buffer width at its narrowest point shall not be less than seventy-five (75%) percent of the buffer width established under Table 8.1.
- v. Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered under the Section Variances.

**8.01 A. 18. c. 3)** Administrative Buffer Reduction. The Administrator shall have the authority to reduce buffer widths established in Table 8.1 on a case-by-case basis; provided that the general standards for avoidance and minimization in Section 11.01 B. 3. h. 1) i shall apply, based on a critical areas report, mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:

- i. The buffer reduction shall not result in a net loss of functions of the habitat buffer.
- ii. The maximum buffer width reduction allowed shall not exceed twenty-five (25%) percent total required buffer established in Table 8.1.
- iii. The buffer width reduction is contingent upon the submittal and approval of a critical areas report, mitigation management plan and SEPA document in conformance with Sections 11.01 B. 3. d., 11.01 B. 3 h.
- iv. Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered under the Section Variances.

v. In cases where there is less than 25' of existing riparian vegetation, the width of the buffers may be reduced, subject to the buffer Width Averaging (Section 8.01 A. 18. c. 2)) or Administrative Buffer Reduction (Section 8.01 A. 18. c. 3)) standards established above. To support a claim that the Buffer should be reduced, a planting plan shall be submitted in combination with a mitigation management plan (Section 11.01 B. 3. h) and SEPA document prepared by a qualified professional and submitted by the applicant. The administrator's decision may be based on, but is not limited to, photographs of existing site conditions, and opinions of qualified professionals. In no case shall the Zone 1 buffer be decreased to less than 10' or the total slope of the bank, whichever is greater. There is an exception for the water dependent portion of the development which is allowed to be located directly adjacent to the OHWM.

**8.01 A. 18. c. 4) Administrative Lot Coverage Increase.** The Administrator shall have the authority to increase the lot coverage allowance in Table 8.1 on a case-by-case basis; provided that the general standards for avoidance and minimization in Section 11.01 B. 3. h. 1) (i) shall apply, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:

- i. The increase in lot coverage will not increase surface water runoff, either onto other properties or toward the shoreline.
- ii. The applicant is implementing best management techniques for the parcel's stormwater handling.
- iii. No net loss of ecological functions and values will occur.

**8.01 A. 18. d. Activities Exempt from Buffers and Setbacks:** The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations herein:

**8.01 A. 18. d. 1) Water Dependent Development:** Those portions of approved water dependent development that requires a location directly adjacent to the ordinary high-water mark of streams, rivers, lakes, ponds, associated wetlands, and/or within their associated buffers. This exception does not eliminate the proponents need to apply mitigation sequencing or the need to provide mitigation for development's impacts.

**8.01 A. 18. d. 2) Modifications Necessary for Agency or Court Compliance:** Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or court, when otherwise consistent with the Shoreline Master Program, provided that the reviewing official determines that:

- i. The facility cannot meet the dimensional standard and accomplish the state, federal or court ordered modifications necessary to bring it into compliance;
- ii. The facility modifications are located, designed, and constructed to meet specified required modification standards necessary while complying with the mitigation sequencing and minimizing damage to ecological functions and values of the critical area and/or shoreline; and
- iii. The modification follows necessary provisions for non-conforming development and uses.

**8.01 A. 18. d. 3) Shared Moorage:** Shared moorages shall not be subject to side yard setbacks when

located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

**8.01 A. 18. e.** Buffer Exemption Criteria: As determined by the Administrator, for development proposed on sites separated from the shoreline by intervening, and lawfully created public roads, railroads, or an intervening parcel under separate ownership, the requirements of this code for a vegetation buffer may be waived. For the purposes of this section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:

- 8.01 A. 18. e. 1)** Separate the subject upland property from the water body due to their width or depth; and
- 8.01 A. 18. e. 2)** Substantially prevent or impair delivery of most ecological functions from the subject upland property to the water body;
- 8.01 A. 18. e. 3)** Be greater than 30' in width, measured perpendicularly from the OHWM of the Shoreline; and
- 8.01 A. 18. e. 4)** Be in separate ownership, which has not been subdivided in the last 5 yrs and the applicant does not have a vested interest in the waterward intervening parcel; and
- 8.01 A. 18. e. 5)** Be developed; the Buffer Exemption shall not be allowed if the intervening parcel is not developed.

**8.01 A. 19.** All clearing and grading activities shall be limited to the minimum necessary for the allowed or permitted development and shall comply with the provisions of Tables 8.1 and 8.3 and the regulations in Section 8.02 K. 1. u., and Sections 8.03 A, B and G.

**8.01 A. 20.** The city of Pateros shall give preference to biological or mechanical means rather than herbicides or insecticides for weed and pest control in shoreline areas. When agricultural chemicals, fertilizers and other spray materials are used, provisions shall be made to minimize their entry into any body of water by following guidance found in Eastern Washington Storm Water manual and seeking guidance provided by Washington State Dept of Agriculture. Spraying over open water is prohibited except to control known risks to public health or as approved by the State for treatment of aquatic weeds. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

**8.01 A. 21.** All shoreline uses and activities shall comply with the Storm Water Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended). Specific requirements include, but are not limited to:

**8.01 A. 21. a.** Solid and liquid wastes, untreated effluents, oil, chemicals, and other hazardous materials shall not be allowed to enter any body of water or to be discharged onto land. 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.

**8.01 A. 21. b.** All shoreline uses and activities in all shoreline designations, both during construction and for the life of the project, shall use storm water best management practices to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving water quality and shoreline ecological functions are not adversely affected. Such measures may include but are not limited to low impact development, dikes, catch basins, settling ponds, oil/water separators, grassy swales, interceptor drains, and landscaped buffers. All measures shall be adequately maintained to insure

proper functioning over time. The *Storm Water Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, as amended) shall provide the preferred guidance for surface water runoff best management practices.

**8.01 A. 22.** All shoreline areas to be disturbed by proposed individual uses and developments in all shoreline designations which cause adverse environmental impacts to occur to shoreline functions shall be restored in compliance with an approved mitigation management plan as found in Chapter 11.01(B)(3)(h)(1) and be subject to posting a reclamation bond. Vegetation from the recommended list (Appendix E) or other species authorized by the City shall be used. Planting of non-native plant species shall be prohibited in Zone 1 buffer areas. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The owner, manager, agency or developer maintaining the facility/parcel shall also be responsible for maintaining the vegetation until it is established. See Section 8.01 A.16. Vegetation Conservation for specific regulations and standards.

**TABLE 8.1 SHORELINE DEVELOPMENT STANDARDS**

All uses and activities must comply with all applicable standards for the shoreline designation where the use or activity will occur. All development standards are subject to modification based on a site-specific assessment, but in no case shall the standards be reduced greater than 25% of the standards stated below without the approval of a Shoreline Variance.

	Aquatic	Natural <sup>3</sup>	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
<b>Standards</b>						
<b>Zone 1 + 2 Combined Vegetation and Use Buffer Width and Setback<sup>4</sup></b>						
Non-Water Dependent or Oriented Uses and Activities	N/A	200'	80'	100'	50'	30'
Water-Oriented Uses and Activities	N/A	200'	50'	80'	50'	25'
Water Dependent Uses and Activities <sup>5</sup>	N/A	200'	0'	0'	0'	0'
<b>Zone 1 Vegetative Buffer Width<sup>6</sup></b>						
Non-Water Dependent or Oriented Uses and Activities	N/A	200'	40'	50'	25'	15'
Water-Oriented Uses and Activities	N/A	200'	25'	40'	25'	12.5'
Water Dependent Uses and Activities	N/A	N/A	0'	0'	0'	0'
<b>Zone 1 Vegetation Buffer Allowed Alterations</b>						
% of Vegetation Buffer that may be altered for view corridor <sup>7</sup>	N/A	N/A	20%	10%	25%	30%
<b>Zone 2 Use Buffer Width<sup>8</sup></b>						
Non-Water Dependent or Oriented Uses and Activities	N/A	0'	40'	50'	25'	15'
Water-Oriented Uses and Activities	N/A	0'	25'	40'	25'	12.5'
Water Dependent Uses and Activities	N/A	0'	0'	0'	0'	0'
<b>Zone 2 Use Buffer Allowed Alterations</b>						
% of Use Buffer that may be altered in total for allowed uses and view corridors	N/A	0'	40%	20%	50%	60%
<b>Dimensions/Lot Coverage Requirements</b>						
Minimum Lot size (acres) <sup>9</sup>	N/A	N/A	1	1	5000 sq ft	2,500 sq ft
Minimum Water Frontage <sup>10</sup>	N/A	N/A	100'	100'	70'	50'
Maximum lot Coverage	N/A	N/A	30%	40%	50%	50%
Side Yard setbacks	N/A	N/A	5'	5'	5'	0
<b>Maximum Structure Height</b>						
Non-Water Oriented Uses and Activities	N/A	N/A	35'	35'	35'	35'
Water-Oriented Uses and Activities	N/A	N/A	25'	25'	25'	35'
Water Dependent Uses and Activities	10'	N/A	20'	20'	20'	35'

3 The Zone 1 buffer encompasses all of the shoreline jurisdiction (200'), so the use setback is equal to 0', buffer averaging and buffer reduction are not allowed in the Natural Designation. Zone 1 + Zone 2 setback = 200'.

4 Shoreline buffers in this SMP shall serve as minimum Riparian fish and wildlife habitat buffers.

5 The setback may be reduced to 0' for those water-dependent uses (e.g. aquaculture, marinas, boat launches) that require location adjoining the water, but in all cases such a setback shall be limited to the smallest area possible.

6 The Zone 1 Vegetation Buffer is 50% of the setback.

7 Amount of shoreline vegetation that maybe altered is the percentage in Table 8.1 or 30' whichever is less.

8 The area between the Vegetation Buffer and Setback intended for low impact uses and activities subject to standards

9 Minimum lot size may be increased based on applicable comprehensive plan and zoning regulations, but in no case shall be reduced without the approval of a variance. In addition minimum lot size only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing conforming parcels.

10 Minimum water frontage only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing conforming parcels.

## 8.01 B. Critical Areas

Critical areas (see Maps in ~~Comprehensive Plan Map Appendix C~~) within shoreline areas shall be protected using the regulations herein unless otherwise specified in this section. All uses and activities within identified critical areas (~~maps in Appendix C~~) shall require mitigation sequencing (Section 11.01 B. 3. h. 1) i) and may require a critical areas report and mitigation management plan (11.01 B. 3. d. 1) and 11.01. B. 3. h. 1) ii).

**8.01 B. 1. Purpose.** Provide for reasonable protection of the natural environment, resource lands and the general public health, safety and welfare, and satisfy the requirements of RCW 90.58 within shoreline jurisdiction by:

**8.01 B. 1. a.** Establishing standards to ensure no net loss for critical areas within the shoreline jurisdiction of the Pateros Shoreline Master Program;

**8.01 B. 1. b.** Protecting the general public, resources and facilities from injury, loss of life, property damage or financial loss due to flooding, landslides, or steep slopes failure;

**8.01 B. 1. c.** Protecting unique, fragile and valuable elements of the environment including without limitation wildlife and its habitat;

**8.01 B. 1. d.** Meeting the requirements of the National Flood Insurance program and maintaining Pateros as an eligible community for federal flood insurance benefits;

**8.01 B. 1. e.** Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands, rivers and streams;

**8.01 B. 1. f.** Providing appropriate guidance and protection measures for addressing the needs and concerns associated with resource lands and critical areas that help define the quality of life in Pateros;

**8.01 B. 1. g.** Encouraging the retention of open space and development of recreational opportunities, conserving fish and wildlife habitat, and increasing access to natural resource lands and water; and

**8.01 B. 1. h.** Implementing applicable mandated federal and state regulations.

### 8.01 B. 2. Applicability.

**8.01 B. 2. a.** These critical area regulations shall apply as shoreline management regulations established by the city.

**8.01 B. 2. b.** All land uses and/or development permit applications on all lots or parcels within shoreline jurisdictions in the city that contain critical areas as defined herein shall comply with the provisions of this chapter. No action shall be taken by any person that results in any alteration of any critical area except as consistent with the purposes, objectives and intent of these regulations.

**8.01 B. 2. c.** Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area. Where it is determined that a designated critical area is located within the shoreline jurisdiction of the Pateros shoreline master program, the provisions herein and within Chapter 8 of this SMP will be used to provide protection to that particular critical area(s).

**8.01 B. 2. d.** The city shall maintain reference maps that provide information on the general locations of critical areas, alerting the public and city officials of the potential presence of critical areas in shoreline jurisdiction. Since boundaries are generalized, the application of these regulations and the actual type, extent and boundaries of critical areas shall be determined and governed by the classification section established for each critical area. In the event of any conflict between the critical

area location or designation shown on the city's maps and the criteria and standards established herein, or the site-specific conditions, the criteria, standards and/or site-specific conditions shall prevail.

**8.01 B. 2. e.** If a permit approval is requested for a development proposal that is located within or immediately adjacent to a critical area designated on the generalized reference maps within shoreline jurisdiction, the city shall review said proposal against the classification criteria found herein to determine the applicability of the regulations. The city may require additional analysis be provided by the applicant to assist in making this determination.

**8.01 B. 3. Exemptions.** The following activities are exempt from the provisions of this section; provided, that the work is conducted using best management practices and any unavoidable impact affecting the environment will be minimized.

**8.01 B. 3. a.** Existing and Ongoing Agricultural Activities. The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program;

**8.01 B. 3. b.** Maintenance and operation of existing roads, streets, utilities and associated structures;

**8.01 B. 3. c.** Passive outdoor recreational activities including fishing, hunting, bird watching or walking/hiking, non-motorized boating and canoeing;

**8.01 B. 3. d.** Low intensity, passive impact of Educational and scientific research and

**8.01 B. 3. e.** Site investigation work necessary for initial land use applications such as surveys, soil logs and percolation tests, and special studies as required by this chapter;

**8.01 B. 3. f.** Emergency activities necessary to prevent an imminent threat or danger to public health or safety, or property. Any emergency action shall be undertaken only after inquiry and approval from the city;

**8.01 B. 3. g.** Remodeling or maintenance of existing structures,

**8.01 B. 3. h.** Routine maintenance of existing landscaping, within a resident's lot boundaries, including pruning, mowing, removal or diseased trees or other diseased vegetation and replacement of individual plants when necessary to maintain a unified landscape theme; and

**8.01 B. 3. i.** Control of noxious weeds that are included on the state noxious weed list (Chapter 16-750 WAC) by the recommended methods of the [City-County](#) agricultural extension agent.

**8.01 B. 4. Reasonable use alternatives.**

**8.01 B. 4. a.** These regulations for critical areas within shoreline jurisdiction are not intended to prevent a reasonable use of property. Where project proponents would seek a "Reasonable Use" exception to their proposal, they shall seek exception process and relief through the SMP Conditional Use or Variance Permit process.

**8.01 B. 5. General provisions.**

**8.01 B. 5. a.** In the event of any conflict between these regulations and any other regulations, that which provides greater protection to the critical area(s) shall apply.

The provisions of this section shall be the minimum requirements and shall be liberally interpreted to serve the purposes of this SMP.

The presence of any known critical areas on or within two hundred-fifty (250) feet of property that is the subject of a development permit shall be identified by the applicant in the application materials submitted to the city.

**8.01 B. 5. b.** The owner of any property with field-verified presence of critical areas or their buffers on which a development proposal is submitted shall file and record a notice with the Okanogan County Auditor, in a form approved by the city, that runs with the land prior to the city approving the requested development. The notice shall provide notice in the public record of the presence of a critical area and/or buffer, and shall also indicate that the property is subject to the provisions of this chapter and that limitations on actions in or affecting such areas may exist.

**8.01 B. 5. c.** In carrying out any of the provisions of this chapter, the city may utilize any available technical resources, with any associated costs being paid for by the applicant, including experts/professionals in a particular field, and maps and/or documents including without limitation the following:

- 8.01 B. 5. c. 1)** Pateros generalized critical area maps;
- 8.01 B. 5. c. 2)** Pateros shoreline master program maps;
- 8.01 B. 5. c. 3)** Okanogan County Level I, Level II and Level III Habitat Maps;
- 8.01 B. 5. c. 4)** US Fish and Wildlife Service National Wetlands Inventory;
- 8.01 B. 5. c. 5)** U.S.G.S. 7.5 Minute Series Topographic Quadrangle Maps;
- 8.01 B. 5. c. 6)** Aerial photos;
- 8.01 B. 5. c. 7)** Approved special reports previously completed for a subject property;
- 8.01 B. 5. c. 8)** City of Pateros comprehensive plan;
- 8.01 B. 5. c. 9)** City of Pateros shoreline master program;
- 8.01 B. 5. c. 10)** Okanogan County Soils Survey;
- 8.01 B. 5. c. 11)** Federal Wetlands Delineation Manual (1987);
- ~~**8.01 B. 5. c. 12)** Washington State Wetlands Identification and Delineation Manual (WDOE #96-94, March 1997, as amended);~~
- ~~**8.01 B. 5. c. 13)**~~**8.01 B. 5. c. 12)** Washington State Wetlands Rating System for Eastern Washington-Revised (WDOE 04-06-015, as amended);
- ~~**8.01 B. 5. c. 14)**~~**8.01 B. 5. c. 13)** Management Recommendations for Washington's Priority Habitats and Species, May 1991, as amended;
- ~~**8.01 B. 5. c. 15)**~~**8.01 B. 5. c. 14)** Management Recommendations for Washington's Priority Habitats- Riparian, December 1997, as amended;
- ~~**8.01 B. 5. c. 16)**~~**8.01 B. 5. c. 15)** Priority Habitats and Species List, July 1999, as amended;
- ~~**8.01 B. 5. c. 17)**~~**8.01 B. 5. c. 16)** US Army Corps of Engineers. (2006). Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region. (Version 2.0), as amended;
- ~~**8.01 B. 5. c. 18)**~~**8.01 B. 5. c. 17)** Wetlands in Washington State- Volume 1: A Synthesis of the Science. Washington State Department of Ecology. Publication #05-06-006; and

**8.01 B. 5. c. 18)** Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008.

**8.01 B. 5. c. 19)** Approved special reports previously completed for a subject property that meets the criteria of best available science.

**8.01 B. 5. c. 20)** U.S. Geological Survey landslide hazard, seismic hazard, and volcanic hazard maps;

**8.01 B. 6. Special studies required.** If city staff determines that the site of a proposed development potentially includes, or is adjacent to, a critical area(s), the staff shall notify the applicant that a special study may be required. When required the expense of undertaking the special study(ies) shall be borne by the applicant. The applicant's choice of consultant or technical expert and the content, format and extent of the special study(ies) shall be approved by city staff.

**8.01 B. 6. a.** The requirement for special studies may be waived by city staff if there is substantial showing that:

**8.01 B. 6. a. 1)** There will be no alteration of the critical area(s) and/or the required buffer(s);

**8.01 B. 6. a. 2)** The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the comprehensive plan; and

**8.01 B. 6. a. 3)** The minimum standards of this chapter will be met.

**8.01 B. 6. b.** No special study is required for development proposals that are exempt from the provisions of this section as set forth in 8.01 B. 3.

**8.01 B. 6. c.** When required, a special study shall be conducted by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the city staff. In general, any required special study shall contain at least the following information, in addition to any other specific information determined pertinent by city staff (specific plan and special study requirements are found in applicable Critical Area sections below):

**8.01 B. 6. c. 1)** A map, of a scale no smaller than one-inch equals two hundred (200) feet, showing the existing features on the site, such as topography, vegetation, etc., and including the extent of any critical area(s), and the plan for the proposed activity showing the relationship to the location of the critical area(s);

**8.01 B. 6. c. 2)** A written analysis of the existing critical area(s) and a description of how the proposed development will or will not impact the ecological functions and values of the critical area(s); and

**8.01 B. 6. c. 3)** A description (written and/or graphic) of any proposed mitigation measures/activities to address impacts to the critical area(s).

**8.01 B. 7. General process.** The provisions of this section shall be implemented during the applicable review process for the requested permit approval, in accordance with the provisions of this SMP.

**8.01 B. 8. Surety/bonding.** If a development proposal is subject to mitigation, maintenance or monitoring plans, the city of Pateros, in a form acceptable to the city attorney, may require an assurance device or surety.

**8.01. B. 9. Permit conditions.**

**8.01 B. 9. a.** Through the applicable review process, the city of Pateros shall have the authority to attach such conditions to the granting of any approval under this section as deemed necessary to alleviate adverse impacts to critical area(s) and to carry out the provisions of this SMP. Such conditions of approval may include, but are not limited to the following:

- 8.01 B. 9. a. 1)** Limitations on minimum lot sizes;
- 8.01 B. 9. a. 2)** Provisions for additional buffers relative to the intensity of a use or activity;
- 8.01 B. 9. a. 3)** Requirements and/or restrictions on the construction, size, location, bulk and/or height, etc., of structure(s);
- 8.01 B. 9. a. 4)** Dedication of necessary easements for utilities, conservation, open space, etc.;
- 8.01 B. 9. a. 5)** Imposition of easement agreements, sureties, deed restrictions, covenants, etc., on the future use and/or division of land;
- 8.01 B. 9. a. 6)** Limitations on the removal of existing vegetation;
- 8.01 B. 9. a. 7)** Additional measures to address issues such as erosion control, storm water management, filling, grading, etc.;
- 8.01 B. 9. a. 8)** Development of a plan to create, enhance, or restore damaged or degraded critical area(s) on and/or off site; and
- 8.01 B. 9. a. 9)** Any monitoring and/or maintenance plans necessary to implement the provisions of this chapter.

**8.01 B. 10. Enforcement.** Violation of the provisions of this section, or failure to comply with any of its requirements, shall be subject to enforcement actions by the city of Pateros that are authorized in the zoning ordinance, subdivision ordinance, shoreline master program or any other land use regulation of the city of Pateros. The city attorney, when authorized by the mayor and council, shall seek penalties, remedies, injunctions and other legal sanctions necessary for the enforcement of this title. In addition to costs allowed by these regulations, the prevailing party in an enforcement action may, at the court's discretion, be allowed interest and reasonable attorney's fees. The city attorney shall seek such costs, interest, and the reasonable attorney's fees on behalf of the city of Pateros when the city is the party.

**8.01 B. 11. Aquifer recharge areas.** Development, uses and activities within identified aquifer recharge areas (map in Appendix C) shall comply with the regulations contained in this master program and be subject to best management practices in compliance with the Eastern Washington Storm Water Management Manual. Any discharges that negatively affect aquifer recharge area's water quality are prohibited.

**8.01 B. 11. a** Classification. The following three-level classification scheme is used to determine the level of protection necessary for land areas:

- 8.01 B. 11. a. 1)** Critical Potential. Rivers, creeks, wetlands, lakes and ponds; and lands that have been specifically identified as critical recharge areas based on reliable scientific data.
- 8.01 B. 11. a. 2)** High Potential. Lands adjacent to rivers, creeks, wetlands, lakes and ponds that include soils that show permeability ratings in the City soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.
- 8.01 B. 11. a. 3)** Moderate Potential. Lands with soils that show permeability ratings in the City soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.

**8.01 B. 11. b. Standards.** For aquifer recharge areas found inside the jurisdiction of the Pateros shoreline master program, the following standards for development shall be required in addition to the general provisions of this section and the requirements of the underlying zone:

**8.01 B. 11. b. 1)** Projects shall be developed which utilize site plans that minimize, to the greatest extent possible, the amount of impervious surfaces associated with the project;

**8.01 B. 11. b. 2)** On-site stormwater facilities shall be designed and installed that provide both detention and treatment of increased runoff associated with the development using Stormwater best management practices;

**8.01 B. 11. b. 3)** A hydrogeologic study may be required to assess impacts of the project on groundwater;

**8.01 B. 11. b. 4)** On-site sewage systems (septic tank and drainfield systems) are prohibited within the city of Pateros;

**8.01 B. 11. b. 5)** Underground storage tanks for fuel and/or hazardous materials that can contaminate the potable water resource are prohibited within any aquifer recharge area.

**8.01 B. 12. Fish and wildlife habitat conservation areas.** Development, uses and activities within or near identified fish and wildlife conservation areas and their buffer areas as identified in Table 8.1 (maps in Appendix C) shall comply with the regulations contained in this master program.

**8.01 B. 12. a Authorized uses and activities.** Uses and activities allowed within designated habitat conservation areas are those uses authorized by the Shoreline Master Program, subject to the provisions of this chapter.

**8.01 B. 12. b. Identification.**

**8.01 B. 12. b. 1)** All fish and wildlife habitat conservation areas shall be identified by the City to reflect the relative function, value and uniqueness of the habitat area as established through an approved habitat ranking evaluation submitted by an applicant for development occurring on a site, in accordance with this Program. The City may use the information sources in Section 8.01 B. 5 as guidance in identifying the presence of potential fish and wildlife habitat conservation areas and the subsequent need for a habitat boundary survey along with an onsite inspection, if necessary.

**8.01 B. 12. b. 2)** Fish and wildlife habitat conservation areas include:

- i. Areas in which endangered, threatened, and sensitive species have a primary association;
- ii. Habitats and species of local importance;
- iii. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
- iv. Waters of the state;
- v. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- vi. State natural area preserves and natural resource conservation areas;
- vii. Riparian areas, Zone 1 and Zone 2 protection areas;
- viii. Lakes 20 acres and greater in size with a water depth of 6' or greater; or
- ix. Intermittent and perennial streams.
- x. Priority habitats and species as identified by the Washington State Department of Fish and

Wildlife Priority Habitats and Species Program.

**8.01 B. 12. b. 3)** Identification and regulation of all wetlands, lakes 20 acres or greater in size with a depth less than 6', lakes under 20 acres in size, and ponds, shall be in accordance with this SMP.

**8.01 B. 12. b. 4)** Identification and regulation of ephemeral or intermittent drainages which do not contain wetland or riparian habitat shall be in accordance with this section.

**8.01 B. 12. c. Designation.** All existing areas of the City identified as noted on the Map in Appendix C and as determined by the Administrator, are designated as fish and wildlife habitat conservation areas. In addition to existing fish and wildlife habitat conservation areas of the City identified as shown in Appendix C, the City may designate additional species, habitats of local importance, and/or wildlife corridors as follows:

**8.01 B. 12. c. 1)** In order to nominate an area, species, or corridor to the category of Locally important, an individual or organization must:

i. Demonstrate a need for special consideration based on:

(1) Declining population,

(2) Sensitivity to habitat manipulation,

(3) Commercial, recreational, cultural, or other special value, or

(4) Maintenance of connectivity between habitat areas.

ii. Propose relevant management strategies considered effective and within the scope of this chapter;

iii. Identify effects on property ownership and use; and

iv. Provide a map showing the species or habitat location(s).

**8.01 B. 12. c. 2)** Submitted proposals shall be reviewed by the City and may be forwarded to the State Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or Tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

**8.01 B. 12.c. 3)** If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter and the various goals and objectives of the ~~The~~ City's Comprehensive Plan, the Growth Management Act, the Shoreline Management Act and this Program; the City Council will hold a public hearing to solicit comment. Approved nominations will then be processed as amendments to this Program in conformance with Chapter 11, in order to be considered as a designated locally important habitats, species, or corridors and if approved will be subject to the provisions of this chapter.

**8.01 B. 12. d. Habitat boundary survey.**

**8.01 B. 12. d. 1)** A wildlife habitat boundary survey and evaluation shall be conducted by a qualified professional biologist, as appropriate, who is knowledgeable of wildlife habitat within North Central Washington. The wildlife habitat boundary shall be field staked by the biologist and surveyed by a land surveyor for disclosure on all final plats, maps, etc.

**8.01 B. 12. d. 2)** The Administrator may waive the requirement for the survey for minor development if:

i. The proposed development is not within the extended proximity of the associated wildlife

habitat;

ii. There is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures; and

iii. The applicant provides voluntary deed restrictions that are approved by the Administrator.

**8.01 B. 12. d. 3)** The wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.

**8.01 B. 12. e. Fish/wildlife habitat management and mitigation plan.**

**8.01 B. 12. e. 1)** A fish/wildlife habitat management and mitigation plan shall be prepared by a qualified professional biologist who is knowledgeable of fish and wildlife habitat within North Central Washington.

**8.01 B. 12. e. 2)** In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the water shed or sub-basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.

**8.01 B. 12. e. 3)** Where compensatory mitigation is necessary, the plan should seek to implement shoreline restoration objectives identified within the City's Shoreline Restoration Plan, SMP Chapter 10.

**8.01 B. 12. e. 4)** The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, no net loss of ecological functions of the habitat conservation area and buffer.

**8.01 B. 12. e. 5)** The fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffer.

**8.01 B. 12. e. 6)** Performance Standards. The following performance standards shall apply to compensatory mitigation projects:

- i. Mitigation planting survival will be 100% for the first year, and 80% for each of the 4 years following.
- ii. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Administrator.
- iii. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional, as approved by the Administrator. The design shall meet the specific needs of riparian and shrub steppe vegetation.
- iv. Monitoring reports by the biologist must include verification that the planting areas have less than 20% total non-native /invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts.
- v. Onsite monitoring and monitoring reports shall be submitted to The City Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5

years after mitigation installation. The length of time involved in monitoring and monitoring reports may be increased by the Administrator for a development project on a case-by-case basis when longer monitoring time is necessary to establish or re-establish functions and values of the mitigation site. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the fish and wildlife management and mitigation plan have been satisfied.

**vi.** Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

**vii.** Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after 1 year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the City may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carryover of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the ~~the~~ City Council to review conformance with the conditions of approval and to determine what actions may be appropriate.

**viii.** Prior to site development and or building permit issuance, a performance surety agreement must be entered into by the property owner and the City. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified professional biologist, including Washington State Sales Tax. The City must approve the quote for said improvements.

**8.01 B. 12. f. General standards.** The following minimum standards shall apply to all development activities occurring within designated habitat conservation areas and their associated buffers.

**8.01 B. 12. f. 1)** Except as permitted by this master program habitat conservation areas and buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the habitat conservation area and/or buffer are unavoidable, demonstrated by compliance with Chapters 8 and 11 of this master program. Impacts must be addressed with appropriate mitigation and enhancement measures as determined on a site-specific basis in conformance with Chapter 11 of this master program.

**8.01 B. 12. f. 2)** Habitat Conservation Areas.

**i.** Development occurring within a one thousand foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require a habitat management and mitigation plan.

**ii.** Cliff, cave and talus slope habitats shall have at least a fifty-foot buffer for safety and

resource protection.

**iii.** Bald Eagles: an approved bald eagle management plan by the Washington Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle Protection Rules, WAC 232-12-292, as amended, satisfies the requirements of a habitat management and/or mitigation plan.

**iv.** Rocky Mountain Mule Deer Habitat: habitat connectivity and migration corridors for mule deer shall be considered in habitat management and/or mitigation plans.

**v.** Development in or over all surface waters shall require a habitat mitigation plan.

**vi.** Aquatic and Vegetation Conservation Protection Standards:

**vii.** Applicable to Zone 1 – and Zone 2 buffers - Except as provided in this Program, the minimum buffer and setback widths found in Chapter 8, Table 8.1 shall apply within the shoreline environment designations administered by the City.

**8.01 B. 12. g. Specific standards.** The following standards shall apply to the activity identified below, in addition to the general standards outlined in this Section.

**8.01 B. 12. g. 1) Stream Crossings.** Expansion or construction of stream crossings may be authorized within a designated habitat conservation area and buffer, subject to the following minimum standards:

- i.** Bridges are required for streams which support salmonids;
- ii.** All crossings using culverts shall use superspan or oversize culverts;
- iii.** Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;
- iv.** Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
- v.** Crossings shall not diminish flood carrying capacity; and
- vi.** Crossings shall serve multiple properties whenever possible.

**8.01 B. 12. g. 2) Water dependent uses,** as defined by this Program, may be located within a habitat conservation area or buffer when the applicant or property owner can demonstrate compliance with Chapter 11 Mitigation Sequencing and Compensatory Mitigation of this SMP.

**8.01 B. 12. g. 3) Trails and trail-related facilities.** Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within designated resource lands and critical areas, subject to the following minimum standards:

- i.** Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
- ii.** Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard;

- iii. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;
- iv. All facilities shall be constructed with materials complementary to the surrounding environment;
- v. Trail facilities that parallel the shoreline may be located in the outer 25 percent the Zone 2, setback area and as allowed in the SMP, Chapter Table 8.1, percent alteration of Zone 2; and,
  - (1) Commercial and Public trails shall be the minimum width necessary to meet the designed need, but in no case shall they exceed 10 feet in width
  - (2) Private trails shall not exceed 4 feet in width;
- vi. Private trails that provide direct shoreline access (Perpendicular) shall not exceed 4 feet in width and shall be kept to the minimum number necessary to serve the intended purpose. Public Trail widths may be expanded in width to accommodate for necessary safety and accessibility;
- vii. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.
- viii. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

**8.01 B. 12. g. 4)** Developments authorized within a designated habitat conservation area or buffer resulting in a greater percentage of use than allowed by Chapter 8, Table 8.1 (**Zone 2 Use Buffer Allowed Alterations**), or those allowed within Zone 1 shall comply with the following minimum standards:

- i. A habitat management and mitigation plan shall be required.
- ii. Designated habitat conservation areas and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, non-buildable lots, buffer areas or common areas. Ownership and control may be transferred to a homeowner's association or designated as an easement or covenant encumbering the property.
- iii. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as a may be approved by the Administrator.
- iv. Residential developments with the potential for two or more dwelling units shall disclose on the face of the plat whether the development will be served by joint use or community dock facilities or a combination thereof. The identification of intent to establish a joint-use or community dock location is not a substitute for permitting required in order to develop moorage facilities and in no way guarantees such an approval.

**8.01 B. 12. g. 5)** Standards. For fish and wildlife habitat conservation areas found inside the shoreline jurisdiction of the Pateros shoreline master program, the following standards for

development shall be required in addition to the general provisions of this chapter and the requirements of the underlying zone:

- i. The Washington State Department of Fish and Wildlife priority habitat and species management recommendations shall be consulted in developing specific measures to protect a specific project site;
- ii. All projects shall comply with the applicable federal, state and local regulations regarding the species;
- iii. As determined through the site-specific study, appropriate buffer distances shall be established and maintained;
- iv. As determined through the site-specific study, mitigation measures shall be implemented that maintain the base line populations and reproduction rates for the particular species; and
- v. As determined through the site-specific study, appropriate habitat conservation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described in Section 8.01 B. 8.

**8.01 B. 13. Wetlands.** Development, uses and activities allowed within designated wetlands (maps in Appendix C) or associated wetland buffers are those uses authorized by this Shoreline Master Program, and are subject to the provisions of this chapter in general and this section specifically.

**8.01 B. 13. a.** The purposes of this Section are to:

**8.01 B. 13. a. 1)** Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

**8.01 B. 13. a. 2)** Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the shoreline areas of the city of Pateros.

**8.01 B. 13. a. 3)** Establish review procedures for development proposals in and adjacent to wetlands that lie within shoreline jurisdiction.

**8.01 B. 13. b.** Identification and Rating.

**8.01 B. 13. b. 1)** Wetlands shall be identified and delineated by a qualified wetland professional in accordance with the [Federal Wetland Delineation Manual](#) ~~*Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94, or as revised and approved by Ecology)*~~. Wetland delineations are valid for five years and performed using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987, as amended); and the US Army Corps of Engineers. (2006) Regional Supplement to the 1987 Delineation Manual: Arid West Region. The City may use the following information sources as guidance in identifying the presence of wetlands and the subsequent need for a wetland delineation study;

- i. Hydric soils, soils with significant soil inclusions, and "wet spots" identified within the local soil survey;
- ii. National Wetlands Inventory;
- iii. Previous wetland rating evaluation; and,

**iv. On-site inspection**

**8.01 B. 13. b. 2)** Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #04-06-015, or as revised and approved by Ecology).

**i.** Category I wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores of ~~22-27 70~~ ~~points or more~~). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

**ii.** Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between ~~19-21 51-69~~ points).

**iii.** Category III wetlands are 1) vernal pools that are isolated and 2) wetlands with a moderate level of functions (scores between ~~16-18 30-50~~ points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

**iv.** Category IV wetlands have the lowest level of functions (scores ~~fewer than 30~~ ~~between 9-15~~ points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

**8.01 B. 13. b. 3)** Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

**8.01 B. 13. c. Regulated Activities**

**8.01 B. 13. c. 1)** For any regulated activity, a critical areas report or wetland critical areas report (see Chapter 11) may be required to support the requested activity.

**8.01 B. 13. c. 2)** The following activities are regulated if they occur in a regulated wetland or its buffer:

- i.** The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
- ii.** The dumping of, discharging of, or filling with any material.
- iii.** The draining, flooding, or disturbing the water level or water table.
- iv.** Pile driving.
- v.** The placing of obstructions.
- vi.** The construction, reconstruction, demolition, or expansion of any structure.

**vii.** The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.

**viii.** "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter amended.

**ix.** Activities that result in:

- (1) A significant change of water temperature.
- (2) A significant change of physical or chemical characteristics of the sources of water to the wetland.
- (3) A significant change in the quantity, timing or duration of the water entering the wetland.
- (4) The introduction of pollutants.

**8.01 B. 13. c. 3)** Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

- i. Land that is located wholly within a wetland or its buffer may not be subdivided.
- ii. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous buildable portion of each new lot is:
  - (1) Located outside of the wetland and its buffer; and
  - (2) Meets the minimum lot size requirements in Table 8.1.

**8.01 B. 13. d.** Exemptions and Allowed Uses in Wetlands

**8.01 B. 13. d. 1)** The following wetlands are exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process described in Chapter 11. They may be filled if impacts are fully mitigated based on provisions in Section 11.01 B. 3. h. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in Section 11.01 B. 3. d. must be submitted.

- i. All isolated Category III and IV wetlands less than 1,000 square feet that:
  - (1) Are not associated with riparian areas or buffer
  - (2) Are not part of a wetland mosaic
  - (3) Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance identified in the maps contained in Appendix C.
  - (4) Are not a vernal pool
  - (5) Are not an alkali wetland
  - (6) Do not contain aspen stands

**8.01 B. 13. d. 2)** Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area or wetland critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

- i. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
- ii. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
- iii. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- iv. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
- v. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- vi. Educational and scientific research activities
- vii. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint or use of the facility or right-of-way.

#### **8.01 B. 13. e. Wetland Buffers**

**8.01 B. 13. e. 1)** Buffer Requirements. The standard buffer widths in Table 8.2 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for eastern Washington.

- i. The use of the standard buffer widths **requires** the implementation of the measures in Table 8.3, where applicable, to minimize the impacts of the adjacent land uses.
- ii. If an applicant chooses not to apply the mitigation measures in Table 8.3 then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
- iii. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

- iv. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 150 feet (75 + 75).
- v. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:
- (1) The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
  - (2) The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
  - (3) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
- vi. Buffer averaging to *improve wetland protection* may be permitted when **all** of the following conditions are met:
- (1) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.
  - (2) The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
  - (3) The total area of the buffer after averaging is equal to the area required without averaging.
  - (4) The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- vii. Averaging to *allow reasonable use* of a parcel may be permitted when **all** of the following are met:
- (1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
  - (2) The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a critical areas report from a qualified wetland professional. The total buffer area after averaging is equal to the area required without averaging.
  - (3) The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

**Table 8.2 Wetland Buffer Requirements**

<b>Wetland Category</b>	<b>Standard Buffer Width</b>	<b>Additional buffer width if wetland scores 21-25 habitat points</b>	<b>Additional buffer width if wetland scores 26-29 habitat points</b>	<b>Additional buffer width if wetland scores 30-36 habitat points</b>
Category I: Based on total score	75ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Forested	75ft	Add 15 ft	Add 45 ft	Add 75 ft
Category I: Bogs	190 ft	NA	NA	NA
Category I: Alkali	150 ft	N/A	NA	NA
Category I: Natural Heritage Wetlands	190 ft	N/A	NA	NA
Category II: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75ft
Category II: Vernal pool	150	NA	NA	NA
Category II: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75ft
Category III (all)	60 ft	Add 30 ft	Add 60 ft	NA
Category IV (all)	40 ft	NA	NA	NA

**Table 8.3 Required measures to minimize impacts to wetlands**

(Measures are required, where applicable to a specific proposal)

<b>Disturbance</b>	<b>Required Measures to Minimize Impacts</b>
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland  If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source  For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered  Establish covenants limiting use of pesticides within 150 ft of wetland  Apply integrated pest management
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development  Prevent channelized flow from lawns that directly enters the buffer  Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion;  Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed  Restore corridors or connections to offsite habitats by replanting

**8.01 B. 13. e. 2)** To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

**8.01 B. 13.e. 3) Measurement of Wetland Buffers.** All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be

considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

**8.01 B. 13. e. 4) Buffers on Mitigation Sites.** All mitigation sites shall have buffers consistent with the buffer requirements of this Section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

**8.01 B. 13. e. 5) Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

**8.01 B. 13. e. 6) Impacts to Buffers.** Requirements for the compensation for impacts to buffers are regulated in Chapter 11.

**8.01 B. 13. e. 7) Overlapping Critical Area Buffers.** If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

**8.01 B. 13. e. 8) Allowed Buffer Uses.** The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland.

- i. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
- ii. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
  - (1) Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
  - (2) Wildlife-viewing structures
- iii. Educational and scientific research activities.
- iv. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
- v. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- vi. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

**vii.** Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

**viii.** Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

- (1) No other location is feasible; and
- (2) The location of such facilities will not degrade the functions or values of the wetland; and
- (3) Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

**ix.** Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

#### **8.01 B. 13. e. 9) Signs and Fencing of Wetlands and Buffers.**

**i.** Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

**ii.** Permanent signs. As a condition of any permit or authorization issued pursuant to this Section, the Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

- (1) Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one (1) per lot or every fifty (50) feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Administrator:

**Protected Wetland Area Do Not Disturb Contact city of  
Pateros Regarding Uses, Restrictions, and  
Opportunities for Stewardship**

- (2) The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

**iii.** Fencing

- (1) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.
- (2) Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

**8.01 B. 13. f. Critical Area Report requirements** for Wetlands are found in Chapter 11, Section 11.01 B.3.d. 2).

**8.01 B. 13. g. Mitigation and Compensatory Mitigation** requirements for wetlands are found in Chapter 11, Section 11.01 B.3. h. and the performance standards in 8.01 B. 13. h.

**8.01 B. 13. h. Performance Standards.** The following performance standards shall apply to compensatory mitigation projects:

**8.01 B. 13. h. 1)** Specific criteria shall be provided in the mitigation plan for evaluating whether or not the goals and objectives of the mitigation project are being met. Such criteria may include percent aerial cover and survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, water quality improvement, flood retention, or other ecological, geological or hydrological criteria. Unless the site specific criteria dictate otherwise, default performance standards for the site shall meet mitigation planting survival of 100% for the first year and 80% plant survival for each of the 4 years following initial planting.

**8.01 B. 13. h. 2)** Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Administrator.

**8.01 B. 13. h. 3)** Success of a mitigation site is dependent upon site selection which supports the establishment of an appropriate wetland hydroperiod that permanently maintains the mitigation site, rather than on continued irrigation. To help ensure successful wetland mitigation, where necessary, a temporary means of irrigation shall be installed for the mitigation plantings within the wetland, that are designed by a landscape architect or equivalent professional, as approved by the Administrator. Where necessary, the administrator may require a permanent means of irrigation be installed for mitigation plantings within the wetland buffer, given the arid conditions of the region. The design shall meet the specific needs of the wetland, riparian and shrub steppe vegetation, as may be applicable.

**8.01 B. 13. h. 4)** Monitoring reports by the biologist must include verification that the planting areas have less than 20% total non-native /invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts.

**8.01 B. 13. h. 5)** Onsite monitoring and monitoring reports shall be submitted to the City Administrator 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the wetland management and mitigation plan have been satisfied.

**8.01 B. 13. h. 6)** Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

**8.01 B. 13. h. 7)** Prior to site development and or building permit issuance, a performance surety agreement in conformance with 8.01 B. 8., must be entered into by the property owner and the City. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified professional

biologist, including Washington State Sales Tax. The City Administrator must approve the quote for said improvements.

**8.01 B. 13. h. 8)** Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after 1 year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the City may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carryover of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the City's Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.

**8.01 B. 13. i. General standards.** The following minimum standards shall apply to all development activities occurring within designated wetlands and/or their buffers.

**8.01 B. 13. i. 1)** Except where permitted by this master program, wetlands and wetland buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the wetland and/or buffer are unavoidable, demonstrated by compliance with this section. Impacts must be addressed with appropriate mitigation and enhancement measures as determined on a site-specific basis in conformance with this section.

**8.01 B. 13. i. 2) Wetland Buffers.** Appropriate buffer areas shall be maintained between all permitted uses and activities and the designated wetland. Provisions to identify the type of wetland and delineate its boundary are established in this section and must be conducted by a qualified professional biologist.

- i.** The width of a wetland buffer, as measured from the wetland edge established in the approved wetland boundary survey, shall be as found in Table 8.2.
- ii.** Where a wetland is located within a riparian buffer, the buffer width, riparian or wetland, which provides the greatest degree of protection shall apply.
- iii.** All buffers shall be measured from the wetland edge, as established by the approved wetland boundary survey.
- iv.** All buffer areas shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the designated wetland and associated buffer. The Administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.
- v.** Except as otherwise allowed, buffers shall be retained in their natural condition. Any habitat created, restored or enhanced as compensation for approved wetland alterations shall have the standard buffer required for the category of the created, restored or enhanced wetland.
- vi.** Land divisions within designated wetland areas shall require a minimum lot frontage along the protective buffer or shoreline as outlined in this Program.

**vii.** The width of the buffer shall be increased by the Administrator for a development project on a case-by-case basis when a larger buffer is necessary to protect the designated wetland function and value. The determination shall be based on site- specific and project-related conditions which include, without limitation:

(1) The designated wetland is used for feeding, nesting and resting by species proposed or listed by the federal or state government as endangered, threatened, sensitive, candidate, monitor or critical; or if it is outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;

(2) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts;

**8.01 B. 13. j. Specific standards.** The following standards shall apply to the activity identified below, in addition to the general standards outlined in this master program.

**8.01 B. 13. j. 1)** Developments which contain a wetland or wetland buffer on site shall comply with the following minimum standards:

**i.** All plats shall disclose the presence on each residential lot one building site, including access, that is suitable for development and which is not within the designated wetland or its associated buffer;

**ii.** All designated wetland areas and their proposed buffers shall be clearly identified on all final plats, maps, documents, etc.;

**iii.** Designated wetlands and their associated wetland buffers shall be designated and disclosed on the final plats, maps, documents, etc., as critical area tracts, nonbuildable lots and buffer areas or common areas. Ownership and control may be transferred to a homeowner's association or designated as an easement or covenant encumbering the property.

**iv.** All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as a may be approved by the Administrator.

**v.** Residential developments with the potential for two or more dwelling units shall disclose on the face of the plat whether the development will be served by joint use or community dock facilities or a combination thereof. Access easements and dock locations shall be identified by a qualified professional biologist who will address the standards of this Master Program. The identification of access easements and dock locations is not a substitute for permitting required in order to develop moorage facilities and in no way guarantees such an approval.

**8.01 B. 13. j. 2) Stream Crossings.** Expansion or construction of stream crossings may be authorized within a designated wetland or wetland buffer, subject to the following minimum standards:

**i.** Bridges are required for streams which support salmonids;

- ii. All crossings using culverts shall use superspan or oversize culverts;
- iii. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;
- iv. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
- v. Crossings shall not diminish flood carrying capacity; and
- vi. Crossings shall serve multiple properties whenever possible.

**8.01 B. 13. J. 3) Water dependent uses**, as defined by this Program, may be located within a wetland or wetland buffer when the applicant or property owner can demonstrate compliance with Section 8.01 B. 13. j.

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

**8.01 B. 13. j. 4) Trails and trail-related facilities.** Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within designated resource lands and critical areas, subject to the following minimum standards:

- i. Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
- ii. Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard;
- iii. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;
- iv. All facilities shall be constructed with materials complementary to the surrounding environment;

- v. Commercial and Public trail facilities that parallel the shoreline may be located in the outer 25 percent of the buffer area and shall be the minimum width necessary for designed use, but shall not exceed 10 feet in width - private parallel shoreline trails may be located in the outer 25 percent of the buffer and shall not exceed 4 feet in width; trails that provide direct shoreline access shall not exceed 4 feet in width. Trails that provide direct shoreline access shall be kept to the minimum number necessary to serve the intended purpose, and
- vi. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.
- vii. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

**8.01 B. 14. Frequently flooded areas.** Development, uses and activities within identified frequently flooded areas (see map in Appendix C) shall comply with the regulations contained in this master program and be compliant with Chapter 15.16 of the Pateros Municipal Code.

**8.01 B. 14. a. Classification.** The following classification system will be used to determine the level of protection necessary for frequently flooded areas:

**8.01 B. 14. a. 1)** Class I. The floodway of any river or stream as designated by FEMA; and draws, alluvials and flood channels that are not mapped by FEMA but are areas of local concern that have a historical reoccurrence of flood events characterized by significant damage from flood flows.

**8.01 B. 14. a. 2)** Class II. All areas mapped by FEMA as one hundred (100) year flood plain; and those areas of local concern that experience recurrences of flooding that are characterized by damage due primarily to inundation.

**8.01 B. 14. b. Standards.** For all Class I and Class II frequently flooded areas found inside the jurisdiction of the Pateros shoreline master program, the following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying zone:

**8.01 B. 14. b. 1)** Encroachments and obstructions, including fill, yard waste dumping, new construction, substantial improvements and other uses are prohibited.

**8.01 B. 15. Geologically hazardous areas.** Development, uses and activities within identified geologically hazardous areas (see map in Appendix C) shall comply with the regulations contained in this master program.

**8.01 B. 15. a. Classification.** Known geologically hazardous areas within the city of Pateros consist of erosion hazard areas, including Channel Migration Zones (Appendix G) and steep slopes. As more information is obtained that demonstrates the existence of other types and/or areas of geologically hazardous areas, these types and/or areas shall be classified and protected in accordance with the provisions of this chapter.

**8.01 B. 15. a. 1)** Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

- i. Erosion hazard;
- ii. Landslide hazard;
- iii. Seismic hazard; or

iv. Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rockfalls, and differential settlement.

**8.01 B. 15. a. 2)** The following general classification system will be used to determine the level of protection necessary for geologically hazardous areas, based upon the risk to development:

- i. Known or suspected risk;
- ii. No risk;
- iii. Risk unknown.

**8.01 B. 15. a. 3)** The following criteria shall be used in determining the status of an area as a particular type of geologically hazardous area:

- i. Erosion hazard areas are at least those areas identified by the United States Department of Agriculture Soil Conservation Service as having a "severe" rill and inter-rill erosion hazard.
- ii. Landslide hazard areas shall include areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

(1) Areas of historic failures, such as:

- (A) Those areas delineated by the United States Department of Agriculture Soil Conservation Service as having a "severe" limitation for building site development;
- (B) Those areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology coastal zone atlas; or
- (C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or department of natural resources division of geology and earth resources.

(2) Areas with all three of the following characteristics:

- (A) Slopes steeper than fifteen percent; and
- (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- (C) Springs or ground water seepage;

(3) Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

(4) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(5) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

(6) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

(7) Areas that show evidence of, or are at risk from snow avalanches;  
Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;

(8) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more

feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

**iii.** Seismic hazard areas shall include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

- (1) The magnitude of an earthquake;
- (2) The distance from the source of an earthquake;
- (3) The type of thickness of geologic materials at the surface; and
- (4) The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow ground water table.

**iv.** Other geological events:

- (1) Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.
- (2) Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

**8.01 B. 15. b. Determination process—Geologically hazardous area.** The City shall review each shoreline permit application to determine if the provisions of this section shall be initiated. In making the determination, the City may use any resources identified in this section, as well as any previously completed special reports conducted in the vicinity of the subject proposal. The following progressive steps shall occur upon a determination by the City that a geologically hazardous area may exist on a site proposed for a development permit:

**8.01 B. 15. b. 1)** Step One. City staff shall determine if there is any possible geologically hazardous area on-site designated by Section 8.01 B. 15 a. 3) of this Appendix. This determination shall be made following a review of information available and a site inspection if appropriate. If no hazard area is determined to be present, this chapter shall not apply to the review of the proposed development.

**8.01 B. 15. b. 2)** Step Two. If it is determined that a geologically hazardous area may be present, the applicant shall submit a geologic hazard area risk assessment prepared by an engineer or a geologist. The risk assessment (geotechnical report) shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby.

**8.01 B. 15. b. 3)** Step Three. If the professional preparing the risk assessment in step two concludes that further analysis is necessary, the applicant shall submit a geotechnical report.

**8.01 B. 15. b. 4)** The geotechnical report shall include a certification from the engineering geologist or geotechnical engineer preparing the report, including the professionals stamp and signature. The geotechnical report shall include the following:

- i. A description of the geology of the site;
- ii. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development,
- iii. Conclusions and recommendations on the suitability of the site to be developed;
- iv. An evaluation of the actual presence of geologic conditions giving rise to the geologic hazard;
- v. An evaluation of the safety of the proposed project;
- vi. Identification of construction practices, monitoring programs and other mitigation measures necessary;
- vii. A bibliography of scientific citations shall be included as necessary.
- viii. A statement regarding:
  - (1) The risk of damage from the project, both on- and off-site;
  - (2) Whether or not the project will materially increase the risk of occurrence of the hazard;
  - (3) The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.

**8.01 B. 15. c. Standards.** The following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying shoreline designation:

**8.01 B. 15. c. 1)** All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

**8.01 B. 15. c. 2)** A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.

**8.01 B. 15. c. 3)** New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall be prohibited.

**8.01 B. 15. c. 4)** New development that would require structural shoreline stabilization over the life of the development shall be prohibited. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC [173-26-231](#).

**8.01 B. 15. c. 5)** Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure,

stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC 173-26-231 requirements and then only if no net loss of ecological functions will result.

**8.01 B. 15. c. 6)** All projects shall comply with the applicable federal, state and local regulations, including the International Building Code;

- i. As determined through the site-specific study, appropriate buffers shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s);
- ii. The existing native vegetation within the buffer area(s) shall be maintained, except that normal, nondestructive pruning and trimming of vegetation for maintenance purposes is allowed;
- iii. As determined through the site-specific study, appropriate drainage, grading, excavation and erosion control measures shall be implemented in the geologically hazardous area(s);
- iv. As determined through the site-specific study, mitigation measures shall be implemented that maintain the integrity of the geologically hazardous area(s);
- v. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided as described in Section 8.01 B. 8; and
- vi. A use or structure established prior to the effective date of this chapter, which does not conform to standards set forth herein, is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

### **8.01 C. Flood Hazard Prevention Projects**

**8.01 C. 1. Purpose.** It is the purpose of this section to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- 8.01 C. 1. a.** To protect human life and health;
- 8.01 C. 1. b.** To minimize expenditure of public money and costly flood control projects;
- 8.01 C. 1. c.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 8.01 C. 1. d.** To minimize prolonged business interruptions;
- 8.01 C. 1. e.** To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- 8.01 C. 1. f.** To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- 8.01 C. 1. g.** To ensure that potential buyers are notified that property is in an area of special flood hazard;
- 8.01 C. 1. h.** To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**8.01 C. 2. Methods of reducing flood losses.** In order to accomplish its purposes, this section includes methods and provisions for:

**8.01 C. 2. a.** Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

**8.01 C. 2. b.** Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

**8.01 C. 2. c.** Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

**8.01 C. 2. d.** Controlling filling, grading, dredging, and other development which may increase flood damage; and

**8.01 C. 2. e.** Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

**8.01 C. 3. Lands to which this section applies.** (44 CFR 59.22(a)) This chapter shall apply to all areas of special flood hazards within the jurisdiction of Pateros, Washington.

**8.01 C. 4. Basis for establishing the areas of special flood hazard.** (44 CFR 60.3(c)(1)(d)(2)). The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Pateros, Washington" to be completed, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM will be on file at 113 Lakeshore Drive when completed. The best available information for flood hazard area identification as outlined in 8.01 C. 11. b. shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 8.01 C. 11.

**8.01 C. 5. Penalties for noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two hundred fifty dollars (\$250.00), for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Pateros, Washington, from taking such other lawful action as is necessary to prevent or remedy any violation.

**8.01 C. 6. Abrogation and greater restrictions.** This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**8.01 C. 7. Interpretation.** In the interpretation and application of this chapter, all provisions shall be:

**8.01 C. 7. a.** Considered as minimum requirements;

**8.01 C. 7. b.** Liberally construed in favor of the governing body; and

**8.01 C. 7. c.** Deemed neither to limit nor repeal any other powers granted under state statutes.

**8.01 C. 8. Warning and disclaimer of liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Pateros, Washington, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

**8.01. 9. Establishment of development permit.**

**8.01 C. 9. a.** Development Permit Required (44 CFR 60.3(b)(1)). A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 8.01 C. 4. The permit shall be for all structures including manufactured homes, as set forth in Section 2.99, Definitions, and for all development including fill and other activities, also as set forth in Section 2.49, Definitions.

**8.01 C. 9. b.** Application for Development Permit (not mandatory; however, example permits are available from FEMA/DOE for review or use). Application for a development permit shall be made on forms furnished by the city of Pateros, ~~Washington~~, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

**8.01 C. 9. b. 1)** Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;

**8.01 C. 9. b. 2)** Elevation in relation to mean sea level to which any structure has been floodproofed;

**8.01 C. 9. b. 3)** Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 8.01 C. 21;

**8.01 C. 9. b. 4)** Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

**8.01 C. 10. Designation of the local administrator.** The building official/permit administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

**8.01 C. 11. Duties and responsibilities of the local administrator.** Duties of the administrator shall include, but not be limited to:

**8.01 C. 11. a.** Permit Review.

**8.01 C. 11. a. 1)** Review all development permits to determine that the permit requirements of this chapter have been satisfied.

**8.01 C. 11. a. 2)** Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required (44 CFR 60.3(a)(2)).

**8.01 C. 11. a. 3)** Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 8.01 C. 25. A. are met.

**8.01 C. 11. b.** Use of Other Base Flood Data (in A and V Zones) (44 CFR 60.3(b)(4)). When base flood elevation data has not been provided (in A or V Zones) in accordance with Section 8.01 C. 4., Basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 8.01 C. 17. through 8.01 C. 23, specific standards, and Section 8.01 C. 25, Floodways.

**8.01 C. 11. c.** Information to Be Obtained and Maintained (44 CFR).

**8.01 C. 11. c. 1)** Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in 8.01 C. 11. b., obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement (44 CFR 60.3(b)(5)(i)). Recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official.

**8.01 C. 11. c. 2)** For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in 8.01 C. 11. b.:

- i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed (44 CFR 60.3(b)(5)(ii)).
- ii. Maintain the floodproofing certifications required in Section 8.01 9. b. 3) (44 CFR 60.3(b)(5)(iii)).

**8.01 C. 11. c. 3)** Maintain for public inspection all records pertaining to the provisions of this section (44 CFR 60.3(b)(5)(iii)).

**8.01 C. 11. d.** Alteration of Watercourses (44 CFR 60.3(b)(6)).

**8.01 C. 11. d. 1)** Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

**8.01 C. 11. d. 2)** Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

**8.01 C. 11. e.** Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

**8.01 C. 12. Conditions for variances.**

**8.01 C. 12. a.** Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

**8.01 C. 12. b.** Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

**8.01 C. 12. c.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**8.01 C. 12. d.** Variances shall only be issued upon:

**8.01 C. 12. d. 1)** A showing of good and sufficient cause;

**8.01 C. 12. d. 2)** A determination that failure to grant the variance would result in exceptional hardship to the applicant;

**8.01 C. 12. d. 3)** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**8.01 C. 12. e.** Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

**8.01 C. 12. f.** Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 8.01 C. 12. b., and otherwise complies with Sections 8.01 C. 14. 8.01 C. 16 and 8.01 C. 17 of the general standards.

**8.01 C. 12. g.** Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk.

**8.01 C. 13. General standards.** In all areas of special flood hazards, the standards of Sections 8.01 C. 14 through 8.01 C. 25 are required.

**8.01 C. 14.** Development in floodplains should not significantly or cumulatively increase flood hazards or be inconsistent with comprehensive flood hazard management plans adopted pursuant to Chapter 86.12 RCW.

**8.01 C. 15.** New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be permitted when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

**8.01 C. 16.** The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:

**8.01 C. 16. a.** Actions that protect or restore the ecosystem-wide processes or ecological functions.

**8.01 C. 16. b.** Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.

**8.01 C. 16. c.** ~~Mining-Dredging~~ when conducted in a manner consistent with Section 8.032 CH. ~~MiningDredging and Dredge Materials Disposal~~, the shoreline environment designation, and with the provisions of WAC 173-26-241(3)(h).

**8.01 C. 16. d.** Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

**8.01 C. 16. e.** Repair and maintenance of an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

**8.01 C. 16. f.** Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding.

**8.01 C. 16. g.** Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

**8.01 C. 17.** Allow new structural flood hazard reduction measures in 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 on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with Chapter 8, and WAC 173-26-221(5).

**8.01 C. 18.** Structural flood hazard reduction measures shall be consistent with adopted comprehensive flood hazard management plans approved by the Department of Ecology.

**8.01 C. 19.** Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

**8.01 C. 20.** Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigated significant ecological impacts, unavoidable conflict with the proposed use, or cost that is disproportionate and unreasonable to the total long-term cost of the development.

Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with the provisions of WAC 173-26, Section 8.03 C. Dredging and Section 8.02 H Mining; and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

**8.01 C. 21. Anchoring.**

**8.01 C. 21. a.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure (44 CFR 60.3(a)(3)(i)).

**8.01 C. 21. b.** All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (44

CFR 603(b)(8)). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas – as it exists or hereinafter amended or updated."

**8.01 C. 22. Construction materials and methods.**

**8.01 C. 22. a.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

**8.01 C. 22. b.** All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**8.01 C. 22. c.** Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

**8.01 C. 23. Utilities.**

**8.01 C. 23. a.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

**8.01 C. 23. b.** Water wells shall be located on high ground that is not in the floodway;<sup>11</sup>

**8.01 C. 23. c.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

**8.01 C. 23. d.** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**8.01 C. 24. Subdivision proposals.**

**8.01 C. 24. a.** All subdivision proposals shall be consistent with the need to minimize flood damage;

**8.01 C. 24. b.** All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage;

**8.01 C. 24. c.** All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

**8.01 C. 24. d.** Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five acres (whichever is less).

**8.01 C. 25. Review of building permits.** Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source Section 8.01 C. 11. b. applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

**8.01 C. 26. Specific standards.** (44 CFR 60.3(c)(1)) In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 8.01 C. 4., Basis for establishing the areas of special flood hazard, or Section 8.01 C. 11. b., Use of other base flood data. Additional standards were

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<sup>11</sup> - Minimum FEMA standards require the lowest floor to be elevated "to or above" the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as thirty (30) percent. Adopting additional freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.

clarified in FEMA Technical Bulletin 11-01 to allow crawlspace construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a twenty (20) percent increase in flood insurance premiums. The following provisions are required.

**8.01 C. 27. Residential construction.**

**8.01 C. 27. a.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more<sup>12</sup> above the base flood elevation (BFE).

**8.01 C. 27. b.** Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

**8.01 C. 27. b. 1)** A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

**8.01 C. 27. b. 2)** The bottom of all openings shall be no higher than one foot above grade.

**8.01 C. 27. b. 3)** Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

**8.01 C. 28. Nonresidential construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more<sup>13</sup> above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

**8.01 C. 28. a.** Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

**8.01 C. 28. b.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

**8.01 C. 28. c.** Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 8.01 11. c. 2);

**8.01 C. 28. d.** Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 8.01 C. 20. b.

**8.01 C. 29. Manufactured homes.** All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above<sup>14</sup> the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

**8.01 C. 30. Recreational vehicles.** Recreational vehicles placed on sites are required to either:

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12 - Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard and are often inadvertently permitted. Insurance rates reflect an "all or nothing" standard, meaning, partially ventilated crawlspaces may be subject to an additional loading fee of twenty (20) to twenty-five (25) percent attached to the annual insurance premium.

13 - Applicants who are floodproofing nonresidential buildings should be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

14 - Minimum FEMA standards require the lowest floor to be elevated "to or above" the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as thirty (30) percent. Adopting additional freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.

**8.01 C. 30. a.** Be on the site for fewer than one hundred eighty (180) consecutive days; or

**8.01 C. 30. b.** Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

**8.01 C. 30. c.** Meet the requirements of Section 8.01 C. 22 and the elevation and anchoring requirements for manufactured homes.

**8.01 C. 31. AE and A1-30 Zones with base flood elevations but no floodways.** (44 CFR 60.3(c)(10)) In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**8.01 C. 32. Floodways.** (Chapter 86.16 RCW) Located within areas of special flood hazard established in Section 8.01 C. 4. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

**8.01 C. 32. a.** Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge (44 CFR 60.3(d)(3)).

**8.01 C. 32. b.** Construction or reconstruction of residential structures is prohibited within designated floodways<sup>15</sup>, except for (1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (2) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (a) before the repair or reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the fifty (50) percent.

**8.01 C. 32. c.** If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 8.01 C. 13. through 8.01 C. 26, provisions for flood hazard reduction.

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<sup>15</sup> - FEMA endorses the more restrictive Washington floodway standard adopted in WAC 173-158-070.

## 8.02 Use and Designation Specific Regulations

### 8.02 A. Accessory Utilities

#### 8.02 A. 1. Accessory Utilities – General Regulations

Accessory utilities are small-scale distribution facilities connected directly to the uses along the shoreline. Electrical, gas, telephone, fiber optic and television cable, water and sewer lines serving a residential development or a commercial establishment are examples of utilities accessory to shoreline uses. Transmission facilities related to a hydropower generating facility are not accessory utilities—they are primary utility facilities.

**8.02 A. 1. a.** Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion.

**8.02 A. 1. b.** Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

**8.02 A. 1. c.** Accessory utilities shall be placed landward of the permitted use setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.

**8.02 A. 1. d.** Existing rights of way and corridors shall be used whenever possible to accommodate the location of utilities. Where no other feasible alternative exists, accessory utilities that require continued maintenance (i.e. no growth over septic systems, electrical transmission lines that require removal of undergrowth) shall not be placed in Zone 1 or 2 Buffers (between OHWM and structure setback), and;

**8.02 A. 1. e.** Accessory Utilities should not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

**8.02 A. 1. f.** Accessory Utilities should not obstruct views or vistas that may alter the visual character of the shoreline environment and its associated water body. Measures to conceal or shield accessory utilities in the shoreline from the water or to protect important view sheds or vistas from the shoreline may be required as conditions for building and development permits.

**8.02 A. 1. g.** Aesthetic measures such as material and color selections to mitigate visual impacts including, but not limited to, light pollution, glare, visual obstructions of views and vistas may be required by the administrator.

**8.02 A. 1. h.** Underground placement shall be given preference over overhead or above ground utilities where feasible.

**8.02 A. 1. i.** Permanent storm water management systems located in shoreline jurisdiction or serving property within the shoreline shall be designed using best management practices ensuring water quality treatment in compliance with the Stormwater Management Manual for Eastern Washington to prevent stormwater runoff from degrading or adding to the pollution of recipient waters or adjacent properties. Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and /or improvement plans.

**8.02 A. 2. Accessory Utilities Designation Specific Requirements:**

**8.02 A. 2. a. Aquatic**

**8.02 A. 2. a. 1)** Prohibited except those required to serve a permitted water dependent use.

**8.02 A. 2. b. Natural**

**8.02 A. 2. b. 1)** Requires a substantial development permit

**8.02 A. 2. c. Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity**

**8.02 E. 5. a. 1)** Allowed, as permitted by primary use

## **Agriculture**

**8.02 B. 1. Agriculture General Use Regulations**

**8.02 B. 1. a.** New agricultural activities on lands that did not have agricultural activities in place at the time of adoption of this Master Program; conversion of agricultural lands or the development of non-agricultural activities on agricultural lands; and uses in support of agricultural activities are governed by the provisions of this Master Program and subject to the following criteria:

**8.02 B. 1. a. 1)** Non-Agricultural land<sup>16</sup> converted to an agricultural use shall preserve pre-existing riparian habitat and will have a buffer strip of native vegetation no less than the Zone 1 Vegetation Buffer setback for the shoreline designation where it is located. Said buffer will be established and maintained along shorelines to protect shoreline ecological functions. Disturbance of ground in Zone 2 of the Use Buffer is subject to Lot Coverage standards.

**8.02 B. 1. a. 2)** Uses and activities shall be consistent with regulations specific to the shoreline designation in which the site is located, including regulations in the tables of uses and development standards;

**8.02 B. 1. a. 3)** Uses and activities shall be located and designed to ensure no net loss of ecological functions;

**8.02 B. 1. a. 4)** Uses and activities shall not have a significant impact on other shoreline ecological function.

**8.02 B. 1. b.** Discharge of any manure storage facility into ground or surface water is prohibited.

**8.02 B. 1. c.** New feedlots, AFOS and CAFOS, or any animal feeding operation that is subject to a CAFO permit as defined by Department of Ecology in WAC 173-95A-020 and manure lagoons are prohibited within shoreline jurisdiction.

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16 - Non-agricultural lands are those lands that have not been subject to agriculture uses as defined in Chapter 2.

**8.02 B. 1. d.** Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi).

## **8.02 B. 2. Agriculture - Designation Specific Regulations**

### **8.02 B. 2. a. *Aquatic, Natural***

**8.02 B. 2. a. 1)** Prohibited

### **8.02 B. 2. b. *Shoreline Recreation, Shoreline Residential***

**8.02 B. 2. b. 1)** Preference shall be given to non-commercial, community and/or personal gardens that may be used for personal use or small-scale market gardens

**8.02 B. 2. b. 2)** Conversion of non-agricultural land to an agricultural use-substantial development permit.

### **8.02 B. 2. c. *Urban Conservancy and High Intensity***

**8.02 B. 2. c. 1)** Conversion of non-agricultural land to an agricultural use for commercial purposes shall require a substantial development permit so long as the use is consistent with locally adopted comprehensive plans and zoning.

## **Aquaculture**

### **8.02 C. 1. Aquaculture - General Use Regulations**

**8.02 C. 1. a.** Aquaculture projects that involve minimal or no substrate modification shall be given preference over those that involve substantial modification. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site. The installation of submerged structures and floating structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible.

**8.02 C. 1. b.** Aquaculture projects that involve minimal or no impact on the aesthetic qualities of the shoreline shall be given preference over those that involve substantial impact. The applicant shall demonstrate that the aesthetic impact is the minimum necessary for feasible aquaculture operations at the site.

**8.02 C. 1. c.** Aquaculture projects that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions (including spreading disease to native aquatic life or establishing new nonnative species that cause significant ecological impacts), shall be prohibited.

**8.02 C. 1. d.** Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality. Herbicides and pesticides shall be used only in conformance with state and federal standard and to the minimum extent needed for the health of the aquaculture activity.

**8.02 C. 1. e.** Aquaculture projects that would significantly conflict with navigation or with established water-dependent uses shall be prohibited.

**8.02 C. 1. f.** Applications for aquaculture projects shall include all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to the following:

**8.02 C. 1. f. 1)** A site plan map including:

- i. The perimeter of the proposed aquaculture operations area.
- ii. Existing bathymetry depths based on the Ordinary High-Water Mark (OHWM).
- iii. Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (OHWM datum).
- iv. Areas where specific substrate modification will take place or structures will be constructed or installed.
- v. Access provisions.
- vi. Location of storage or processing structures or facilities.

**8.02 C. 1. f. 2)** A baseline description of existing conditions, including best available information on:

- i. Water quality
- ii. Prevailing storm wind conditions
- iii. Current flows
- iv. Flushing rates
- v. Areas of differing substrate composition.
- vi. Areas of aquatic, and upland vegetation complexes.
- vii. Existing shoreline or water uses and structures.
- viii. Aquatic and benthic organisms.
- ix. Assessment of aquatic species, and spawning and other lifecycle use of, or adjacent to, the site. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.

**8.02 C. 1. f. 3)** A detailed description of the project proposal including:

- i. Species to be reared.
- ii. Substrate modification or vegetation removal.
- iii. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.
- iv. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the local government with jurisdiction. Compounds with the least persistence shall be used. An annual report of antibiotic use shall be submitted to the Okanogan County Health District. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by Health District staff at all times.

- v. Number of employees/workers necessary for the project, including average and peak employment.
- vi. Methods of waste disposal and predator control.
- vii. Methods to address pollutant loading, including biological oxygen demand (BOD).
- viii. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified in the *Shoreline Characterization* (Appendix A), including but not limited to watershed-level, indirect and cumulative effects.
- ix. For floating culture facilities or other structures, the local government with jurisdiction may require a visual impact analysis. (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts.
- x. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.
- xi. Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect Critical Areas.
- xii. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, underwater utilities, and scientific research. Existing public opportunities for gathering wild stock aquatic resources on public lands shall be addressed in any application for aquaculture on public bedlands. Compensation for loss of public access to public aquatic resources may be required.
- xiii. Other pertinent information deemed necessary by the Administrator. Applications for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.
- xiv. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.
- xv. Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impacts from noise, light, and/or glare on nearby residents, other sensitive uses or critical habitat.
- xvi. Aquaculture facilities shall not introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.

**8.02 C. 1. g.** If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, unless otherwise provided for, the local government with jurisdiction shall require baseline and periodic operational monitoring by a consultant approved by said government, at the applicant's expense, which continue until adequate information is available to determine the success of the project and the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

**8.02 C. 1. h.** All aquaculture projects shall be submitted for review to local, state and federal agencies with expertise, including the Washington departments of Ecology and of Fish and Wildlife, and to the operators of affected FERC licensed hydro-projects. The local government with jurisdiction shall make available to those agencies the *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this SMP and shall request technical assistance in establishing any conditions that should be required of a project and in assessing the monitoring plan.

**8.02 C. 1. i.** New aquatic species that have not previously been cultivated in Washington State shall not be introduced without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health.

**8.02 C. 1. j.** Except for the sorting or culling of the cultured organism after harvest and the washing or removal of surface materials or organisms prior to or after harvest, no processing of any aquaculture product shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located landward of the ordinary high-water mark.

**8.02 C. 1. k.** Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act, RCW Chapter 90.48. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

**8.02 C. 1. l.** Predator control shall not involve killing or harassment of birds or mammals. Approved controls include, but are not limited to, overhead netting for birds. The use of other non-lethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, as required.

**8.02 C. 1. m.** In the event of a significant fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Okanogan County Health District stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence. Permits shall include provisions for adjustment or termination of the project at any time if such an event cannot be remediated to the satisfaction of the Health District may be required.

**8.02 C. 1. n.** All floating and submerged aquaculture structures and facilities in shoreline waters shall be marked in accordance with U.S. Coast Guard requirements.

**8.02 C. 1. o.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribe(s) as part of the permit review process.

**8.02 C. 1. p.** Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the local government with jurisdiction shall require the posting of a bond commensurate with the cost of removal or repair. Said government may abate an abandoned or unsafe structure pursuant to the provisions of Chapter 11 of this SMP or the relevant chapters of the Pateros Municipal Code.

### **8.02 C. 2. Aquaculture - Designation Specific Requirements**

#### **8.02 C. 2. a. *Aquatic, Natural***

**8.02 C. 2. a. 1)** Conditional use permit

#### **8.02 C. 2. b. *Shoreline Recreation,***

**8.02 C. 2. b. 1)** All aquaculture located upland of the aquatic zone shall be prohibited.

#### **8.02 C. 2. c. *Urban Conservancy, Shoreline Residential, High Intensity***

**8.02 C. 2. c. 1)** Requires a shoreline substantial development permit.

## **8.02 D. Archaeological, Cultural, Educational, Historic and Scientific Resources**

### **8.02 D. 1. Archaeological, Cultural, Educational, Historic and Scientific Resources - General Use Regulations**

The following regulations apply to all shoreline uses and activities in all shoreline designations and on all sites within shoreline jurisdiction having archaeological, cultural, or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP) and/or with local jurisdictions, including the City, Okanogan County, the Colville Confederated Tribes (CCT), the Yakama Indian Nation (YIN) and affected Indian tribes and bands; or that have been or may be inadvertently uncovered.

**8.02 D. 1. a.** Archaeological sites are subject to the National Historic Preservation Act, as amended (16USC470), RCW 27.44 (Indian Graves and Records), RCW 27.53 (Archaeological Sites and Resources), and WAC 25-48 (Archaeological Excavation and Removal Permit).

**8.02 D. 1. b.** All Shorelines of the State and any other sites identified by the DAHP and/or the CCT or YIN as having a high probability of containing significant archaeological and historic resources shall be considered suspected historic, cultural, or archaeological resources.

**8.02 D. 1. c.** Known or suspected historic, cultural, and archaeological sites:

**8.02 D. 1. c. 1)** Notification of DAHP, or CCT and/or YIN and, if required, preparation of an evaluation and a report meeting the minimum reporting standards of the DAHP or Colville and/or Yakama Tribes (as appropriate). Such a report shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological, cultural, or historic resources, regardless of whether a shoreline permit or exemption is required.

**8.02 D. 1. c. 2)** Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction shall require an evaluation and a report meeting the minimum reporting standards of the DAHP, Colville and/or Yakama Tribes (as appropriate), prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site.

- i.** The fee for the services of the cultural resource management professional shall be paid by the applicant. The applicant shall submit a minimum of five (5) copies of the site assessment to the Administrator for distribution to the applicable parties for review.
- ii.** If the evaluation identifies the presence of significant historic, cultural, or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61. The fee for the services of the cultural resource management professional shall be paid by the applicant. In the preparation of such plans, the cultural resource management professional shall solicit comments from the DAHP, the History and Archeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five (5) copies of the CRMP to the Administrator for distribution to the applicable parties for review.
- iii.** The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic, cultural, and archaeological resources and appropriate mitigating measures. The Administrator shall consult with the DAHP, the History and Archeology Department of the CCT, and any affected Indian or First Nations tribes or bands prior to approval of the CRMP.
- iv.** The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic, cultural, and archaeological resource management concerns involved.

**8.02 D. 1. c. 3)** Upon receipt of a complete development permit application in an area of known or suspected historic, cultural, or archaeological resources, the local government with jurisdiction shall notify and request a recommendation from appropriate agencies, including the DAHP, the CCT, and any Indian or First Nations tribes or bands known to be affected. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever feasible. Notification shall include the following information:

- i.** The date of application, the date of notice of completion of the application, and the date of the notification;
- ii.** A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
- iii.** A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the ~~local government with jurisdiction~~City;

- iv. The identification of other permits not included in the application, to the extent known by the local government with jurisdiction;
- v. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- vi. Any other information determined appropriate by the local government with jurisdiction;
- vii. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency, if they have been identified at the time of notice;
- viii. A statement of the limits of the comment period and the right of each agency to comment on the application within a thirty (30) day time period, request a copy of the decision once made, and appeal a decision when allowed by law.

**8.02 D. 1. c. 4)** In granting shoreline permits or statements of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction may attach conditions to provide sufficient time and/or conditions for consultation with the DAHP, the CCT, and any affected Indian or First Nations tribes or bands, and to ensure that historic, cultural, and archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic, cultural, and archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the DAHP pursuant to RCW 27.44 and RCW 27.53 may apply in addition to the provisions of this SMP.

**8.02 D. 1. d. Inadvertent Discovery**

**8.02 D. 1. d. 1)** All shoreline permits shall contain provisions requiring that, whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development in shoreline areas, work on that portion of the development site shall be stopped immediately, the site secured, and the find reported as soon as possible to the Administrator.

**8.02 D. 1. d. 2)** Upon notification of such find, the property owner shall notify the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Notification to agencies shall include the information specified for notification under the heading “Known or suspected historic, cultural, and archaeological sites” above.

**8.02 D. 1. d. 3)** Upon notification of such find, the Administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the parties listed above, the Administrator may require that an immediate evaluation be conducted or may allow stopped work to resume. The evaluation shall meet the minimum reporting standards of the DAHP and shall be conducted by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, to determine the presence of significant historic, cultural, or archaeological resources. The fee for the services of the cultural resource management professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the evaluation and accompanying report to the Administrator for distribution to the applicable parties for review.

**8.02 D. 1. d. 4)** If an evaluation is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the evaluation is completed. The evaluation shall be distributed to the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected for a thirty (30) day review period or, in the case of inadvertent discovery of human remains, a thirty (30) day review period to determine the significance of the discovery. If the above listed agencies or governments have determined that the site is not significant, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, stopped work may resume.

**8.02 D. 1. d. 5)** Upon receipt of a positive determination of a site's significance, the Administrator may invoke the provisions for known sites, above, for a Cultural Resource Management Plan.

**8.02 D. 1. e.** The requirements of this section shall not apply where an applicant has obtained an approved Archeological Excavation and Removal permit from the DAHP pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.

## **8.02 D. 2. Archaeological, Cultural, Educational, Historic and Scientific Uses - Designation specific requirements**

**8.02 D. 2. a.** *Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential, High Intensity*

**8.02 D. 2. a. 1)** Exempt, if a low intensity use and provided that no significant ecological impact on the area will result.

## **8.02 E. Boating Facilities**

### **8.02 E. 1. Boating Facilities - General Regulations (including docks, marinas, launches, moorage)**

**8.02 E. 1. a.** When establishing regulation of motorized vs non-motorized uses, whether by Okanogan County or the city of Pateros, hours and other limitations on boating use of waters in and near Pateros, the regulations shall be based, in part, on protection of shoreline functions and values.

**8.02 E. 1. b.** Mitigation for any adverse development impacts of boating facilities shall be required. On-site mitigation shall be preferred; however, in cases in which meaningful on-site mitigation is not feasible, off-site mitigation may be allowed. In such instances a mitigation management plan shall be required, and shall specify a suitable mitigation site. Adverse development impacts to adjacent properties shall not be allowed.

**8.02 E. 1. c.** New boating facilities shall be consistent with the applicable local comprehensive and recreation plans. When new sites are considered, sufficient evidence must be presented to show that existing public and commercial marinas, docks, and boat launches are inadequate and cannot be expanded to meet regional demand.

**8.02 E. 1. d.** For commercial and public boating facilities, the perimeter of parking and storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas, using primarily native, self-sustaining vegetation from the recommended list (Appendix E)). Landscaping along the waterward side shall also be required. The permit application submittal shall identify the size, location, and species of plants that will be used.

**8.02 E. 1. e.** Boating facilities shall be located where no or minimal shoreline stabilization will be necessary and where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other maintenance activities.

**8.02 E. 1. f.** When plastics and other non-biodegradable materials are used in boating facilities, precautions shall be taken to ensure their containment.

**8.02 E. 1. g.** Boating facility design shall minimize interference with geohydraulic processes and disruption of existing shore forms.

**8.02 E. 1. h.** Parking facilities serving a boating facility shall be located outside shoreline jurisdiction, or, if that is not feasible, shall be located landward of the Zone 2 - Use Buffer (Table 8.1).

**8.02 E. 1. i.** Boating facilities, including boat lifts, and navigation aids shall be positioned so as not to be a hazard to navigation. To minimize impacts to navigation, boating facilities, including docks, piers, floats, etc... shall extend no farther into the Methow or Columbia than the minimum required for compliance with the standards of the Douglas County PUD, or 100 feet, whichever is less.

**8.02 E. 1. j.** Boating facilities shall provide public access in accordance with Section 8.02 K Public Access.

**8.02 E. 1. k.** Boating facilities shall be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials is encouraged.

**8.02 E. 1. l.** The City shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington departments of Ecology, of Fish and Wildlife, and of Health; and shall make available to those agencies the *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this master program. The local government with jurisdiction shall consider the comments received from those agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.

**8.02 E. 1. m.** Overwater structures shall only be placed on portions of the shorelines where the natural flows and velocities shall not be impeded by the structure and where the placement of the structure will not restrict the natural scour and depositional actions of the shoreline.

**8.02 E. 1. n.** New pier or dock construction, excluding docks accessory to single-family residences, shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

## **8.02 E. 2. Marina-Specific Regulations:**

**8.02 E. 2. a.** Where allowed, marinas shall be permitted only as a conditional use.

**8.02 E. 2. b.** Public access, both physical and visual, shall be required as part of all marinas.

**8.02 E. 2. c.** Marinas shall be constructed in accordance with the provisions all applicable current state and local regulations.

**8.02 E. 2. d.** Marinas or expanded constructed after the effective date of these regulations that provide moorage space for watercraft shall provide sewage pump-out facilities.

**8.02 E. 2. e.** Marinas shall be sited, designed, and built to minimize conflicts with agriculture.

**8.02 E. 2. f.** Marinas shall be designed to not interfere with existing navigation on the Columbia and Methow rivers.

### **8.02 E. 3. Marinas - Designation Specific Requirements**

#### **8.02 E. 3. a. *Aquatic***

**8.02 E. 3. a. 1)** Marinas are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

#### **8.02 E. 3. b. *Natural***

**8.02 E. 3. b. 1)** Prohibited.

#### **8.02 E. 3. c. *Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity***

**8.02 E. 3. c. 1)** Conditional use permit.

### **8.02 E. 4. Docks and Moorage - Specific Regulations**

The regulations that follow are applicable to all docks, shared moorage facilities, and other overwater boating facilities, and the word “dock” shall apply to all such facilities.

**8.02 E. 4. a.** The Administrator shall require and use the following information in his or her review of proposals for docks:

**8.02 E. 4. a. 1)** Description of the proposed structure, including its size, location, design, materials, and any shoreline stabilization or other modifications required by the project.

**8.02 E. 4. a. 2)** Proposed location of the dock relative to property lines and the ordinary high-water mark.

**8.02 E. 4. a. 3)** Orientation of the dock relative to neighboring docks.

**8.02 E. 4. a. 4)** Anticipated impacts on views and on access to existing docks, and other reasonably foreseeable impacts on adjacent properties.

**8.02 E. 4. a. 5)** Any provisions for public access, enjoyment and use of the water and shorelines.

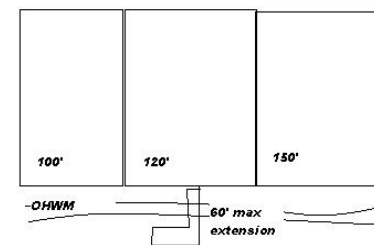
**8.02 E. 4. b.** Docks shall not significantly interfere with the use of shoreline waters or with public use of shorelines. The length of any dock shall be the minimum necessary to assure navigability and protect public use of the water body. On “T” or “L” shaped docks, the length of the extension or extensions perpendicular to the main body of the dock shall not exceed 50% of the length of the lot property line at the OHWM, or the upland property line adjacent to the lake, as shown in Figure 8.2 a. Docks may be prohibited where necessary to protect navigation or public use of the water body. Docks not attached to the shoreline may be allowed where the dock serves a water-dependent or water-oriented use and measures have been taken to reduce the hazard to navigation.

**8.02 E. 4. c.** All docks shall be constructed and maintained in a safe condition. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Abandoned or unsafe docks shall be removed or repaired promptly by the adjoining upland property owner. Where any such structure constitutes a hazard to the public, the local government with jurisdiction may, following notice to the owner, abate the structure if the owner fails to do so within 90 days. Said government may impose a lien on the associated shoreline property in an amount equal to the cost of the abatement.

**8.02 E. 4. d.** No over-water application of preservative treatment or other chemical compounds shall be permitted. Docks may be painted provided brush application is used and best management practices are followed to prevent paint from coming in contact with the water.

**8.02 E. 4. e.** Any person or succession of different persons resides on the vessel in a specific location, and/or in the same area on more than a total of thirty days in any forty-day period or on more than a total of ninety days in any three hundred sixty-five-day period results in a "Residential Use" Status and is prohibited. "In the same area" means within a radius of one mile of any location where the same vessel previously moored or anchored on state-owned aquatic lands. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered used as a recreational or transient vessel.

**Figure 8.2 a**



**8.02 E. 4. f.** Bulk storage for gasoline, oil, and other petroleum products is prohibited on docks.

**8.02 E. 4. g.** All docks shall be designed and constructed in compliance with the following standards:

**8.02 E. 4. g. 1)** Pilings must be structurally sound prior to placement in the water.

**8.02 E. 4. g. 2)** Piles, floats, or other materials in direct contact with the water must be approved by applicable state agencies, including the Washington Department of Fish and Wildlife and, in the case of state owned bedlands, the Washington Department of Natural Resources.

**8.02 E. 4. g. 3)** Floating docks shall include stops to keep the floats off the bottom of the water body at low water level.

**8.02 E. 4. g. 4)** Overhead wiring or plumbing is not permitted on docks.

**8.02 E. 4. g. 5)** Lighting shall be the minimum necessary to locate the dock at night and shall focus downward to minimize glare. Any dock extending more than fifty feet (50') beyond the OHWM shall have white lights marking the outer dimensions. In all cases, solar-powered lights shall be preferred.

**8.02 E. 4. g. 6)** Docks with feet or plates that rest on the lakebed or streambed are preferred over those requiring excavation and footings.

**8.02 E. 4. g. 7)** Dock design, placement, and orientation shall allow for access to existing docks in the vicinity and shall minimize impacts on adjacent properties, including impacts on views.

**8.02 E. 4. h.** All residential moorage facilities shall be subject to number, size, and setback standards as follows:

**8.02 E. 4. h. 1)** Number:

- i.** All new residential developments (including subdivisions is moorage facilities are proposed) serving more than two dwelling units that intend to provide moorage facilities must create shared moorage facilities rather than individual docks. Such development, including, new residential subdivisions or planned developments shall be required to indicate the location of shoreline access to proposed moorage facilities at the time of plat or subdivision.
- ii.** All multi-family residences proposing to provide moorage facilities shall be limited to a single shared moorage facility, provided that the Administrator may authorize more than one shared moorage facility if, based on conditions specific to the site, a single facility would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional facility or facilities will have no net impact on shoreline ecological resources.
- iii.** For existing residential lots, no more than one dock shall be permitted for each shoreline lot.

**8.02 E. 4. h. 2) Size:**

- i.** The length of any dock shall be the minimum necessary to accomplish moorage for the intended boating use and shall be only long enough to accommodate slips for one boat for each residence served plus one slip for transient moorage.
- ii.** A dock serving a single-family use over 200 square feet or 25 feet in length is allowed only as a conditional use in all shoreline designations.

**8.02 E. 4. h. 3) Side yard setbacks:**

- i.** Docks shall be set back a minimum of five feet (5') from side property lines, except that shared moorage facilities may be located adjacent to or upon a side property line when mutually agreed to by a legal instruments such as a contract, covenant or easement with the owners of all properties with access privilege. A copy of the contract, covenant or easement must be recorded with the Okanogan County Auditor and filed with the application for permit or shoreline exemption.

**8.02 E. 4. i.** All shared moorage facilities shall be subject to the following standards:

**8.02 E. 4. i. 1)** Shared moorage facilities shall include no more than one moorage space per dwelling unit or lot and one transient slip.

**8.02 E. 4. i. 2)** The size of the moorage facility shall be the minimum necessary to accomplish moorage for one boat for each residence served plus one transient slip, and the moorage facility shall be configured to cause minimal disturbance to shoreline resources.

**8.02 E. 4. i. 3)** Any requirement for shared moorage shall be documented with a restriction on the face of the plat. Restrictive covenants prohibiting individual docks and requiring shared moorage, and providing that the covenants shall not be altered without the approval of the Administrator, shall be recorded with the Okanogan County Auditor.

**8.02 E. 4. i. 4)** If shared moorage is provided, the applicant shall file a legally enforceable joint use agreement or other legal instrument at the time the permit application for the mooring facility is submitted. Said instrument shall, at minimum, address the following:

- i.** Provisions for maintenance and operation;
- ii.** Easements or tracts for community access; and
- iii.** Provisions for joint or community use for all benefiting parties.

**8.02 E. 4. i. 5)** Any site for shared moorage shall be owned in undivided interest by property owners or managed by the homeowners' association as a common easement within the residential development. Shared moorage facilities shall be available to property owners in the residential development for community access.

**8.02 E. 5. Docks and Moorage - Designation Specific Requirements:**

**8.02 E. 5. a. Aquatic**

**8.02 E. 5. a. 1)** Moorage facilities are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

**8.02 E. 5. b. Natural**

**8.02 E. 5. b. 1) Prohibited.**

**8.02 E. 5. c. Urban Conservancy**

**8.02 E. 5. c. 1)** Moorage facilities for motor-craft are prohibited.

**8.02 E. 5. c. 2)** Commercial wet moorage may be allowed through a CUP.

**8.02 E. 5. d. High Intensity, Shoreline Recreation and Shoreline Residential**

**8.02 E. 5. d. 1)** Non-commercial moorage facilities shall be allowed subject to a shoreline substantial development permit.

**8.02 E. 5. d. 2)** Commercial wet moorage may be allowed through a CUP in Shoreline Recreation;

**8.02 E. 5. d. 3)** A SDP is required for commercial moorage in High Intensity.

**8.02 E. 5. d. 4)** No commercial moorage shall be allowed in Shoreline Residential.

**8.02 E. 6. Float-Specific regulations:**

**8.02 E. 6. a.** No more than one float shall be permitted for each shoreline lot.

**8.02 E. 6. b.** Floats shall not significantly interfere with navigation or with public use of shorelines. No portion of the float shall be placed more than eighty feet (80') from the OHWM or the point at which the depth of the water exceeds seven feet (7') during high water. Floats may be prohibited where necessary to protect navigation or public use of the water body.

**8.02 E. 6. c.** No float shall have more than one hundred (100') square feet of surface area.

**8.02 E. 6. d.** All multi-family residences proposing to provide floats shall be limited to a single shared float, provided that the Administrator may authorize more than one shared float if, based on conditions specific to the site, a single float would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional float or floats will have no net impact on shoreline ecological resources.

**8.02 E. 7. Floats - Designation Specific Requirements:**

**8.02 E. 7. a. Aquatic, adjoining Urban Conservancy, Natural**

**8.02 E. 7. a. 1)** Conditional use permit.

**8.02 E. 7. b. Aquatic, adjoining Shoreline Recreation, Shoreline Residential, and High Intensity**

**8.02 E. 7. b. 1)** Substantial development permit.

### **8.02 E. 8. Covered Moorage (e.g., overhead boat & jet ski canopies) - Designation Specific Requirements**

#### **8.02 E. 8. a. Aquatic**

**8.02 E. 8. a. 1)** Allowed or prohibited based on regulation for adjoining shoreline designation.

#### **8.02 E. 8. b. Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 E. 8. b. 1)** All new boat garages are prohibited.

### **8.02 E. 9. Boat Lifts - Designation Specific Requirements**

#### **8.02 E. 9. a. Aquatic**

**8.02 E. 9. a. 1)** Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

#### **8.02 E. 9. b. Natural**

**8.02 E. 9. b. 1)** Prohibited.

#### **8.02 E. 9. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential, and High Intensity:**

**8.02 E. 9. b. 1)** Substantial development permit.

### **8.02 E. 10. Commercial and Public Boat Launch Ramps - Designation Specific Requirements**

No private boat launches designed with hard surfaces for motorized water craft are allowed. Private, hand launches shall require an SPD in all shoreline environments. Only commercial and public hardened launches are allowed through either an SDP or CUP permitting as specified in section 8.02 E 11 & 12.

#### **8.02 E. 10. a. Aquatic**

**8.02 E. 5. a. 1)** Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

#### **8.02 E. 10. b. Natural**

**8.02 E. 10. b. 1)** Prohibited

#### **8.02 E. 10. c. Urban Conservancy, Shoreline Residential**

**8.02 E. 10. c. 1)** Commercial launches: prohibited.

**8.02 E. 10. c. 2)** Public launches: Substantial Development Permit.

#### **8.02 E. 10. d. High Intensity, Shoreline Recreation**

**8.02 E. 10. c. 1)** Commercial: Substantial Development Permit.

**8.02 E. 10. c. 2)** Public: Substantial Development Permit.

### **8.02 E. 11. Individual Private Motorized Boat Launch Ramps - Designation Specific Requirements**

**8.02 E. 11. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

8.02 E. 11. a. 1) Prohibited.

### **8.02 E. 12. Individual Private Pervious Surface (sand, cobble) Hand Launch Boat/Raft ramps – Designation Specific Requirements**

#### **8.02 E. 12. a. Aquatic**

8.02 E. 12. a. 1) Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

#### **8.02 E. 12. b. *Natural, Urban Conservancy, Shoreline Residential, High Intensity and Shoreline Recreation***

8.02 E. 12. b. 1) Substantial Development Permit.

### **8.02 E. 13. Mooring Buoys/Float Plane Moorage Accessory to Permitted Moorage - Designation Specific Requirements**

#### **8.02 E. 13. a. *Natural, Aquatic, waterward of Urban Conservancy***

8.02 E. 13. a. 1) Conditional use permit.

#### **8.02 E. 13. b. *Aquatic, waterward of Shoreline Recreation, Shoreline Residential, and High Intensity environments***

8.02 E. 13. b. 1) Substantial development permit.

## **8.02 F. Commercial Uses and Activities**

### **8.02 F. 1. Commercial Uses and Activities – General Regulations**

8.02 F. 1. a. Commercial developments permitted in shoreline areas are, in descending order of preference:

8.02 F. 1. a. 1) Water-dependent uses;

8.02 F. 1. a. 2) Water-related uses;

8.02 F. 1. a. 3) Water-enjoyment uses; and

8.02 F. 1. a. 4) Non-water-oriented uses

8.02 F. 1. b. The Administrator shall require and use the following information in his or her review of commercial development proposals:

8.02 F. 1. b. 1) Consistency with local comprehensive plan and zoning;

8.02 F. 1. b. 2) Specific nature of the commercial activity;

8.02 F. 1. b. 3) Need for shoreline frontage; determination if use qualifies as water-dependent, water-related or water-enjoyment

8.02 F. 1. b. 4) Provisions for public visual and/or physical access to the shoreline;

8.02 F. 1. b. 5) Provisions to ensure that the development will not result in loss of shoreline functions including conditions for ecological restoration;

8.02 F. 1. b. 6) Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and

**8.02 F. 1. b. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and accompanying maps.

**8.02 F. 1. c.** Nonwater-oriented commercial uses are prohibited in all shoreline designations unless they meet the following criteria:

**8.02 F. 1. c. 1)** The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

**8.02 F. 1. c. 2)** Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

**8.02 F. 1. c. 3)** In areas designated or zoned for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another developed property, flood control structure or public right of way.

**8.02 F. 1. c. 4)** Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

**8.02 F. 1. c. 5)** The use serves a function supportive of water oriented or water dependent uses or is otherwise consistent with approved community planning.

**8.02 F. 1. d.** Commercial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area.

**8.02 F. 1. d. 1)** All commercial loading and service areas shall be located on the upland (landward) side of the commercial structure to the maximum extent practical or provisions shall be made to separate and screen the loading and service areas from the shoreline.

**8.02 F. 1. d. 2)** Commercial developments where landscaping is proposed shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. The permit application submittal shall identify the size, location, and species of plants that will be used.

**8.02 F. 1. e.** Water-related and water dependent commercial development on private and public lands shall be required to consider incorporating public access and ecological restoration as mitigation for impacts to shoreline functions and values unless public access cannot be provided which does not result in significant interference with operations or hazards to life or property, where commercial use is proposed for location on land in public ownership, public access shall be required. Refer to Section 8.03 K and WAC 173-26-221(4) for public access provisions. Any intended public access facilities must be platted, or incorporated into a binding site plan, improved, and maintained and in compliance with local comprehensive planning and shoreline recreational access planning.

## **8.02 E. 2. Commercial Uses and Activities - Designation Specific Requirements:**

**8.02 F. 2. a. Aquatic**

**8.02 F. 2. a. 1)** Commercial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

**8.02 F. 2. a. 2)** Conditional use permit.

**8.02 F. 2. b. *Natural***

**8.02 F. 2. b. 1)** Prohibited.

**8.02 F. 2. c. *Urban Conservancy Shoreline Recreation, Shoreline Residential and High Intensity***

**8.02 F. 2. c. 1)** Commercial development is allowed with a substantial development permit provided such development is consistent with local zoning regulations, is subject to the development standards in this SMP, those standards set forth in Table 8.1, and as follows:

- i. Commercial development shall be water-oriented, except as allowed in 8.02 F.1. c.

**8.02 G. Industrial Uses and Activities**

**8.02 G. 1. Industrial Uses and Activities – General Regulations**

**8.02 G. 1. a.** Industrial developments permitted in shoreline areas are, in descending order of preference:

- 8.02 G. 1. a. 1)** Water-dependent uses;
- 8.02 G. 1. a. 2)** Water-related uses;
- 8.02 G. 1. a. 3)** Water-enjoyment uses; and
- 8.02 G. 1. a. 4)** Non-water-oriented uses

**8.02 G. 1. b.** New non-water-oriented industrial development shall be prohibited in all shoreline designations except when:

- 8.02 G. 1. b. 1)** The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- 8.02 G. 1. b. 2)** Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
- 8.02 G. 1. b. 3)** In areas designated or zoned for industrial use, non-water-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

**8.02 G. 1. c.** The Administrator shall require and use the following information in his or her review of industrial development proposals:

- 8.02 G. 1. c. 1)** Consistency with local comprehensive plans and zoning;
- 8.02 G. 1. c. 2)** Specific nature of the industrial activity;
- 8.02 G. 1. c. 3)** Need for shoreline frontage;
- 8.02 G. 1. c. 4)** Provisions for public visual and/or physical access to the shoreline;
- 8.02 G. 1. c. 5)** Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;
- 8.02 G. 1. c. 6)** Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and

**8.02 G. 1. c. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and accompanying maps.

**8.02 G. 1. d.** Industrial development shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-221](#)(4).

**8.02 G. 1. e.** Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

**8.02 G. 1. f.** Where industrial development is allowed, it shall be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

**8.02 G. 1. g.** Industrial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in Table 8.1 and/or prescribe reasonable use-intensity and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

**8.02 G. 1. h.** New over-water construction for industrial uses is prohibited unless it can be shown to be essential to a water-dependent industrial use.

**8.02 G. 1. i.** All loading and service areas shall be located on the upland (landward) side of the industrial facility or provisions shall be made to separate and screen the loading and service areas from the shoreline, unless such provisions are infeasible due to the specific nature of the water-dependent industrial use or the proposed circulation poses a safety hazard to existing traffic patterns.

**8.02 G. 1. j.** Industrial development on private and public lands shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-241](#)(3)(f). Where industrial use is proposed for location on land in public ownership, public access shall be required. Any intended public access facilities must be platting, or incorporated into a planned development or binding site plan, improved, and maintained in compliance with local comprehensive planning and shoreline recreational access planning.

**8.02 G. 1. k.** Industrial developments shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used.

**8.02 G. 1. l.** Drainage and surface runoff from industrial developments shall be controlled so that pollutants will not be carried into water bodies.

## **8.02 G. 2. Industrial Uses - Designation Specific Requirements:**

### **8.02 G. 2. a. Aquatic**

**8.02 G. 2. a. 1)** Industrial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

**8.02 G. 2. a. 2)** All such uses shall require a conditional use permit and be subject to the development standards set forth in Table 8.1.

**8.02 G. 2. b. *Natural,***

**8.02 G. 2. b. 1) Prohibited.**

**8.02 G. 2. c. *Urban Conservancy***

**8.02 G. 2. c. 1)** Industrial development shall be limited to water-dependent uses that require an over-the-water location.

**8.02 G. 2. c. 2)** All such uses shall require a conditional use permit and be subject to the development standards set forth in Table 8.1.

**8.02 G. 2. d. *Shoreline Recreation and Shoreline Residential***

**8.02 G. 2. d. 1)** New industrial development shall be prohibited.

**8.02 G. 2. d. 2)** Expansion of pre-existing water-dependent industrial uses in these zones shall be permitted through a conditional use permit.

**8.02 G. 2. d. 3)** Expansion of pre-existing industrial uses shall not alter the visual character of the zone and be subject to mitigations measures that will enhance the natural character of the shoreline.

**8.02 G. 2. e. *High Intensity***

**8.02 G. 2. c. 1)** Industrial development is allowed with a substantial development permit provided such development is conforming to the underlying land use zone or associated with a permitted agricultural or industrial use and be subject to the development standards in this SMP and those set forth in Table 8.1.

**8.02 G. 2. c. 2)** Industrial development shall be water dependent, water related or water-oriented or be physically separated from the shoreline by another property under separate ownership, a flood control structure, or public right of way.

**8.02 G. 2. c. 3)** In no case shall non-water dependent new industrial development warrant the construction of flood protection structures or shoreline stabilization.

## **8.02 H. Mining Uses and Activities**

### **8.02 H. 1. Mining Uses and Activities – General Regulations**

**8.02 H. 1. a.** Mineral prospecting and placer mining are only allowed subject to compliance with the current edition of the Washington State Department of Fish and Wildlife’s Gold and Fish pamphlet, all other prospecting and placer mining activities at different times or locations, or with different equipment than allowed in WDFW Gold and Fish shall ~~require a Conditional Use Permit~~ be prohibited. ~~This provision does not apply to mining that meets the definition of a substantial development (See Chapter 2 – Definitions).~~

~~**8.02 H. 1. b.** All surface mining shall be conducted in strict conformance with the Washington State Surface Mining Reclamation Act, Chapter 78.44 RCW. Surface mining permits shall be coordinated with state and federal permits.~~

~~**8.02 H. 1. c.** Mining not meeting the definition of mineral prospecting or placer mining shall require a conditional use permit.~~

~~8.02 H. 1. d.~~— In all shoreline designations, mining shall only be allowed by Conditional Use Permit and only when the proposed mine site has been identified as a mineral land of long-term commercial significance.

~~8.02 H. 1. e.~~— Mining waterward of the ordinary high-water mark:

~~8.02 H. 1. e. 1)~~— Mining waterward of the ordinary high-water mark of a river shall not be permitted unless:

~~i.~~— Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

~~ii.~~— The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

~~8.02 H. 1. e. 2)~~— The determinations required by Section 8.02 H.1. a., above, shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a) and shall be integrated with required SEPA review.

~~8.02 H. 1. e. 3)~~— In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, local government shall require compliance with the provisions of 8.02.H.1.f and 8.02 H. 1. g, to the extent that no such review has previously been conducted. Where there has been prior review, local government shall review previous determinations comparable to the requirements of this section to assure compliance with the provisions of Section 8.02 H. 1. g. and 8.02 H. 1 g.

~~8.02 H. 1. e. 4)~~— The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231 (3)(f).

~~8.02 H. 1. f.~~— The Administrator shall require and use the following information in his or her review of mining proposals (except mineral prospecting and placer mining):

~~8.02 H. 1. f. 1)~~— Materials to be mined;

~~8.02 H. 1. f. 2)~~— Need for those materials;

~~8.02 H. 1. f. 3)~~— Need for shoreline location;

~~8.02 H. 1. f. 4)~~— Quantity of materials to be mined, by type;

~~8.02 H. 1. f. 5)~~— Quality of materials to be mined, by type. For certain minerals, an evaluation by a geologist licensed under the provisions of RCW 18.220 may be required;

~~8.02 H. 1. f. 6)~~— Mining technique and equipment to be used;

~~8.02 H. 1. f. 7)~~— Depth of overburden and proposed depth of mining;

~~8.02 H. 1. f. 8)~~— Lateral extent and depth of total mineral deposit;

~~8.02 H. 1. f. 9)~~— Cross-section diagrams indicating present and proposed elevations and/or extraction levels;

~~8.02 H. 1. f. 10)~~— Existing drainage patterns, seasonal or continuous, and proposed alterations thereof including transport and deposition of sediment and channel changes that may result;

~~8.02 H. 1. f. 11) — Proposed means of controlling surface runoff and preventing or minimizing erosion and sedimentation including impacts to banks on both sides of the excavation;~~

~~8.02 H. 1. f. 12) — The location and sensitivity of any affected critical areas;~~

~~8.02 H. 1. f. 13) — Subsurface water resources and aquifer recharge areas, including origin, depth, and extent;~~

~~8.02 H. 1. f. 14) — Quality analysis of overburden, excavation materials, and tailings, with plans for storage, use, or disposition;~~

~~8.02 H. 1. f. 15) — Mining plan and scheduling, including seasonal, phasing, and daily operation schedules;~~

~~8.02 H. 1. f. 16) — Reclamation plan that meets the requirements of this master program and Chapter 78.44 RCW (for surface mining operations only);~~

~~8.02 H. 1. f. 17) — Screening, earthen berm buffering, and/or fencing plans; and~~

~~8.02 H. 1. f. 18) — Impacts to aquatic and shoreline habitat.~~

~~8.02 H. 1. g. — Mining operations (except mineral prospecting and placer mining) shall be sited, designed, conducted, and completed (including reclamation) to ensure no net loss of shoreline ecological functions, including watershed-scale functions and cumulative impacts. A reclamation plan prepared by a qualified professional and providing for restoration of slope stability, water conditions, safety conditions, and, where relevant, vegetative cover shall be required for any new mining and associated activities. Meeting the “no net loss” standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation, and shall be based on an evaluation of the final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. The proposed subsequent use of mined property must be consistent with the provisions of the environment designation in which the property is located. Performance security requirements are as follows:~~

~~8.02 H. 1. g. 1) — Surface mining operations must comply with the relevant performance security requirements of RCW 78.44.~~

~~8.02 H. 1. g. 2) — A public or governmental agency shall not be required to post performance security.~~

~~8.02 H. 1. g. 3) — All other approved mining operations shall be required to post performance security in an amount adequate to complete reclamation, based on an approved reclamation plan.~~

~~8.02 H. 1. h. — Mining operations shall comply with all local, state, and federal water quality standards and pollution control laws. Operations shall use effective techniques to prevent or minimize surface water runoff, erosion and sedimentation; prevent reduction of natural flows; protect all shoreline areas from acidic or toxic materials; and maintain the natural drainage courses of all streams. Surface water runoff shall be impounded as necessary to prevent accelerated runoff and erosion.~~

~~8.02 H. 1. i. — Overburden, mining debris, and tailings shall not be placed in water bodies or floodways and shall be stored and protected so as to prevent or minimize erosion or seepage to surface and ground waters.~~

~~8.02 H. 1. j. — Precautions shall be taken to insure that stagnant or standing water especially that of a toxic or noxious nature does not develop.~~

~~8.02 H. 1. k. — In no case shall mining operations impair lateral support and thereby result in earth movements extending beyond the boundaries of the site.~~

~~8.02 H. 1. l. — If substantial evidence indicates that mining operations are causing, or continued operation would cause, significant and adverse impacts to water quality, habitat, or any shoreline ecological function, the Administrator shall terminate the shoreline permit for mining or impose further conditions on the mining operation to ensure no net loss of shoreline ecological functions.~~

### ~~8.02 H. 2. — Mining — Designation Specific Requirements:~~

#### ~~8.02 H. 2. a. — Aquatic~~

~~8.02 H. 2. a. 1) — Mining shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM.~~

~~8.02 H. 2. a. 2) — Mineral prospecting and placer mining are allowed subject to the provisions of Section 8.02 H. 1. a.~~

#### ~~8.02 H. 2. b. — Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity~~

~~8.02 H. 2. b. 1) — Mining is prohibited, unless the subject property has been designated as mineral lands of long-term commercial significance which shall require a conditional use permit.~~

~~8.02 H. 2. b. 2) — Mineral prospecting and placer mining are allowed subject to the provisions of this section, above.~~

## **8.02 I. Municipal (includes all local governments)**

Municipal uses are those in support of local government functions and services (e.g. public schools, city hall, maintenance facilities, hospitals, etc.). For the purposes of this SMP, recreational uses and utility facilities are excluded and shall comply with applicable sections.

### **8.02 N. 1. Municipal – General Regulations**

**8.02 I. 1. a.** Non-water-oriented municipal uses will be permitted in shoreline areas only when no other feasible location is available, and only in compliance with standards in this SMP including bulk and dimensional standards established in Table 8.1 and shall be in compliance with the clearing and grading section.

**8.02 I. 1. b.** The Administrator shall require and use the following information in his or her review of municipal use proposals:

**8.02 I. 2. b. 1)** Specific nature of the proposed activity;

**8.02 I. 2. b. 2)** Need for shoreline location; including minimizing portion of use within shoreline jurisdictions.

**8.02 I. 2. b. 3)** Other locations considered and the reasons for choosing a shoreline site;

**8.02 I. 2. b. 4)** Provisions for public visual and/or physical access to the shoreline;

**8.02 I. 2. b. 5)** Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;

**8.02 I. 2. b. 6)** Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and

**8.02 I. 2. b. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this SMP.

**8.02 I. 1. c.** Municipal uses shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area and result in no net loss of shoreline function. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in Table 8.1 and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

**8.02 I. 1. d.** All loading and service areas shall be located on the upland (landward) side of the principal structure or provisions shall be made to separate and screen the loading and service areas from the shoreline.

**8.02 I. 1. e.** Municipal uses shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall include a landscape plan identifying the size, location, and species of plants that will be used.

**8.02 I. 1. f.** Drainage and surface runoff from municipal uses shall be controlled so that pollutants will not be carried into water bodies complying with the Eastern Washington Stormwater Manual.

**8.02 I. 1. g.** Public access facilities must be provided, dedicated, improved, and maintained as part of any shoreline municipal use.

**8.02 I. 1. h.** Municipal uses shall not be allowed in wetlands, or shoreline riparian vegetation conservation areas (Zone 1 and 2) or their buffers without following mitigation sequencing, complying with other parts of this SMP.

## **8.02 I. 2. Municipal - Designation Specific Requirements:**

### **8.02 I. 2. a. *Aquatic***

**8.02 I. 2. a. 1)** Municipal uses shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM.

### **8.02 I. 2. b. *Natural***

**8.02 G. 2. b. 1)** Municipal Uses are prohibited, except low intensity recreational uses and restoration activities.

### **8.02 I. 2. c. *Shoreline Recreation, Urban Conservancy,***

**8.02 G. 2. c. 1)** Non-water oriented uses and activities require a conditional use permit.

**8.02 G. 2. c. 2)** Water-oriented uses require a substantial development permit

### **8.02 I. 2. d. *Shoreline Residential and High Intensity***

**8.02 I. 2. d. 1)** Non-water-oriented uses and activities require a SDP

**8.02 I. 2. d. 2)** Water Oriented uses are and activities require a SDP.

## **8.02 J. Parking**

### **8.02 J. 1. Parking – General Regulations**

**8.02 J. 1. a.** Any new and expanded parking area in a shoreline area shall directly serve an existing (legal at the time of adoption of this SMP) shoreline use.

**8.02 J. 1. b.** All parking shall be prohibited over water. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use.

**8.02 J. 1. c.** Parking facilities shall prevent surface water runoff from contaminating water bodies, using the best available technology and best management practices, including complying with applicable Eastern Washington Storm Water Manual, and a maintenance program to assure proper functioning over time of any stormwater facilities required to comply with this regulation.

**8.02 J. 1. d.** New commercial and industrial parking facilities, necessary to support an authorized use, in shoreline areas shall be sited in compliance with bulk and dimensional standards of Table 8.1, comply with Clearing and Grading Standards and designed to minimize visual, pedestrian, and other transportation network impacts as well as to minimize environmental impact on shoreline resources.

**8.02 J. 1. e.** Commercial parking facilities shall be adequately screened and landscaped along the waterward side with plants from the recommended list (Appendix E). Where a flood levee exists, it shall be considered screening.

**8.02 J. 1. f.** Parking facilities that will serve more than one use, such as recreational use on weekends and commercial use on weekdays shall be allowed and preferred to single use parking facilities.

## **8.02 J. 2. Parking - Designation Specific Regulations**

**8.02 J. 2. a. *Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity***

**8.02 J. 2. a. 1)** Parking as a primary use and commercial parking - prohibited.

**8.02 J. 2. b. *Aquatic and Natural***

**8.02 J. 2. b. 1)** Parking appurtenant to existing permitted use is prohibited.

**8.02 J. 2. c. *Shoreline Recreation and Shoreline Residential***

**8.02 J. 2. c. 1)** Parking appurtenant to existing permitted use requires a substantial development permit.

**8.02 J. 2. d. *Urban Conservancy***

**8.02 J. 2. d. 1)** Parking appurtenant to existing permitted use requires a conditional use permit.

**8.02 J. 2. e. *High Intensity***

**8.02 J. 2. e. 1)** Parking appurtenant to existing permitted use is allowed.

## **Public Access**

### **8.02 K. 1. Public Access – General Regulations**

**8.02 K. 1. a.** For the purpose of this SMP, the city of Pateros Comprehensive Plan and Douglas PUD land use policies and recreational plans shall be considered the official public access plans. Additional recreation plans approved by the City Council may be used to supplement public access provisions of the Comprehensive Plan for this SMP, provided said plans are not in conflict with the regulations herein.

**8.02 K. 1. b.** Development, uses, and activities shall be designed and operated to avoid unnecessarily impairing or detracting from the public's physical or visual access to the water and shorelines.

**8.02 K. 1. c.** Public access sites shall be dedicated to a public or non-profit entity unless a formal homeowners association or other legal entity exists or will be established to ensure the long-term viability of the access.

**8.02 K. 1. d.** The Signage regulations in Section 8.02 O Signage of this chapter and the Shoreline Development Standards in Table 8.1 have been established in part to prevent impairment of or detract from visual public access.

**8.02 K. 1. e.** Provisions for public or community access to the shoreline shall be incorporated into the shoreline development proposal for any action requiring such access unless the applicant demonstrates that such access is infeasible because at least one of the following provisions applies:

**8.02 K. 1. a. 1)** Unavoidable health or safety hazards to the public exist which cannot be prevented by any practicable means;

**8.02 K. 1. a. 2)** Inherent security requirements of the use cannot be satisfied through the application of alternative design features, such as fencing or limiting hours of use, or other solutions;

**8.02 K. 1. a. 3)** Unacceptable environmental harm will result from the public access which cannot be mitigated;

**8.02 K. 1. a. 4)** Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated;

**8.02 K. 1. a. 5)** In determining that public access (physical and/or visual) is infeasible the shoreline administrator and applicant shall ensure that all reasonable alternatives have been evaluated, including but not limited to:

- i. Regulating access by such means as limiting hours of use to daylight hours;
- ii. Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc;
- iii. Provision of an access at a site physically separated from the proposal such as a nearby street end, providing off-site public access improvements such as building a shoreline view point or establishment or providing improvements to a trail system.

**8.02 K. 1. f.** Dedication and improvement of physical public access shall be required as part of all shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, with the following exceptions:

**8.02 K. 1. f. 1)** Where an approved public access plan developed as part of a regulatory licensing process is submitted. Said public access plan must provide adequate public access to the shoreline, based on a needs analysis. Said public access facilities shall be developed, improved, and maintained as part of an approved Shoreline Recreational Plan and installed in a timely manner in coordination with the approved shoreline development.

**8.02 K. 1. f. 2)** Where more effective public access to the shoreline can be achieved through implementation of Pateros' the-adopted recreation plan ~~of the local government with jurisdiction~~, the public entity proposing the development may contribute proportionally to implementation of the recreation plan in lieu of providing public access on site.

**8.02 K. 1. g.** Dedication and improvement of public physical access shall be required in all shoreline areas as follows:

**8.02 K. 1. g. 1)** As part of all marina development;

- 8.02 K. 1. g. 2)** As part of commercial boating facilities designed to serve the public or located on and adjoining on publicly owned uplands.
- 8.02 K. 1. g. 3)** As part of all new water-enjoyment, water-related and water-dependent commercial and industrial development, while consistent with local comprehensive plans, provided the intended use does not pose a safety threat to the general public.
- 8.02 K. 1. g. 4)** As part of all primary utility development on public land. The requirement may be waived where an approved public access plan has been adopted as part of a regulatory licensing process. Said public access plan must provide adequate public access, based on a needs analysis.
- 8.02 K. 1. g. 5)** As part of all subdivisions of land into more than four parcels while consistent with local comprehensive and recreational public access plans.
- 8.02 K. 1. g. 6)** As part of new structural public flood hazard reduction measures, such as dikes and levees.
- 8.02 K. 1. g. 7)** As part of publicly financed or subsidized shoreline erosion control measures, where feasible, incorporate ecological restoration and public access improvements into the project, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. These shoreline erosion measures shall not restrict existing public access to the shoreline.
- 8.02 K. 1. h.** Adjoining short plats totaling more than four parcels and submitted within 5 years of each other by the same applicant shall be subject to public access dedications.
- 8.02 K. 1. i.** The scope and scale of public access shall be commensurate with the scale of the proposed land use action and the need for public physical and visual access opportunities in the vicinity of the proposed action.
- 8.02 K. 1. j.** In all cases, the minimum width of shoreline public access easements shall be ten feet (10'), unless the Administrator determines that undue hardship would result. In such cases, easement or right-of-way widths may be reduced only to the extent necessary to relieve the demonstrated hardship.
- 8.02 K. 1. k.** Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.
- 8.02 K. 1. l.** Rights of navigation shall be protected in conformance with the provisions of this Master Program.
- 8.02 K. 1. m.** Public access sites and facilities shall be designed, constructed, operated, and maintained to result in no net loss of shoreline ecological functions.
- 8.02 K. 1. n.** Public access sites shall be connected directly to the best-suited public street by way of a right of way or easement dedicated, improved, and maintained for public use. This requirement may be modified if the cost would be disproportionate to the scale of the proposed land use action.
- 8.02 K. 1. o.** Any vacation of right-of-way within the shoreline must comply with RCW 35.79.035, "Limitations on vacations of streets abutting bodies of water — Procedure."
- 8.02 K. 1. p.** Where feasible, and in accordance with the Americans with Disabilities Act (ADA), public access sites shall be made barrier-free for people with disabilities.

**8.02 K. 1. q.** Required public access sites shall be developed and available for public use at the time of occupancy of the use or activity; or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.

**8.02 K. 1. r.** Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

**8.02 K. 1. s.** Public access easements shall be recorded on the deed of title and/or on the face of the plat or short plat as conditions running in perpetuity. Said recording with the Okanogan County Auditor's Office shall occur at the time of permit approval. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

**8.02 K. 1. t.** The standard State-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites.

**8.02 K. 1. u.** View Corridor Provisions.

**8.02 K. 1. i. 1)** View corridors shall comply with provisions for vegetation management and buffer requirements for the shoreline designation for the project site. View Corridors shall be allowed up to the percentage listed in Table 8.1 but limited to a width of 30 feet, in no case shall a view corridor be approved that will result view corridor greater than 30 feet in width paralleling the shoreline

**8.02 K. 1. i. 2)** View corridors may be allowed, subject to the provisions of this section, to provide the general public and property owners with opportunities for visual access to water bodies associated with shoreline lots.

**8.02 K. 1. i. 3)** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited.

**8.02 K. 1. i. 4)** Prior to removing vegetation for a view corridor, the owner of the shoreline parcel on which vegetation alterations are proposed must submit:

i. A signed application;

ii. A scaled graphic which demonstrates the areal extent of the view corridor (width and depth), showing existing vegetation and proposed alterations; and

iii. A graphic and/or site photos for the entire shoreline frontage, which demonstrates that the building site and proposed or existing structure does not, or will not when constructed, have a view of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.

**8.02 K. 1. i. 5)** In creating a view corridor, removal of vegetation shall be limited to the minimum necessary to preserve or enhance views. In no case shall the view corridor exceed the provisions found in Table 8.1.

i. The following standards apply:

(1) View corridors are not allowed in the Natural and Urban Conservancy designations unless associated with an existing use.

(2) Pruning of native trees shall not exceed 30% of a tree's limbs.

- (3) “Topping” of native tress is prohibited
- (4) Shrubs shall not be pruned to a height of less than six feet (6’).
- (5) Removal or pruning of vegetation waterward of the ordinary high water mark is prohibited.
- (6) Once a view corridor or other shoreline access corridor has been established, no additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs.
- (7) On any site on which a buffer has been reduced or modified, a view corridor will be allowed only when a critical areas report (see Chapter 11) can clearly establish that fragmentation of fish and wildlife habitat will not occur, and that there will be no net loss of shoreline ecological functions.

ii. The following additional requirements apply:

- (1) Plants that represent a hazard to safety, security, or shoreline ecological functions may be replaced with plants from the recommended list (**Appendix E**), provided a mitigation plan is submitted and approved. The mitigation plan must meet the standards of the local government with jurisdiction for a mitigation plan for Critical Fish and Wildlife Habitat.
- (2) Non-native or invasive species may be replaced with plants from the recommended list (**Appendix E**), provided a mitigation management plan is submitted and approved. The mitigation plan must meet the standards of Chapter 11 for a mitigation plan for Critical Fish and Wildlife Habitat.
- (3) All developments proposing a view corridor shall provide a mitigation plan that will need to be approved by the administrator. The mitigation plan must meet the standards of the Chapter 11 for Critical Fish and Wildlife Habitat.

**8.02 K. 1. i. 6)** Removal of trees to provide or enhance visual access shall be limited to the requirements found in this section and Table 8.1 as well as shoreline modification standards in Section 8.03.

**8.02 K. 1. i. 7)** Removal of diseased, damaged or stressed trees for the purpose of forest stewardship and conservation, property protection, or fire safety are subject to approval through a shoreline exemption

## **8.02 L. Utilities**

Utilities are transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants. On-site utility features serving a shoreline property, such as water, sewer or gas line connections to a residence, are "accessory utilities" and shall be considered a part of the primary use and are subject to the regulations contained in Section 8.02 A Accessory Utilities.

## **8.02 L. 1. Utilities – General Regulations**

**8.02 L. 1. a.** Utility development shall be located within public rights-of-ways or existing infrastructure corridors whenever possible and be coordinated with government agencies to provide for compatible multiple uses.

**8.02 L. 1. b.** Utilities shall be located and designed to avoid damage or degradation to shoreline ecological function including wetlands, marshes, bogs and other swamps; important wildlife areas; and other unique and fragile areas.

**8.02 L. 1. c.** Underwater pipelines which transport material intrinsically harmful to aquatic life or potentially injurious to water quality, including sewer lines, shall be provided with automatic shut off valves at each end of the underwater segments.

**8.02 L. 1. d.** Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion and shoreline ecological function, including protection of water quality using Best Management Practices.

**8.02 L. 1. e.** Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

**8.02 L. 1. f.** The placing of utility lines shall not obstruct or hinder physical or visual access to shoreline areas from public rights-of-ways or public use areas. Utilities shall be placed landward of the primary structural setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.

**8.02 L. 1. g.** Except where no other feasible alternative exists, utilities that require continued maintenance and therefore disrupt ecological processes (i.e. electrical transmission lines that require removal of undergrowth) shall not be placed in Vegetation Conservation areas (between OHWM and structure setback).

## **8.02 L. 2. Utilities - Designation Specific Regulations**

**8.02 L. 2. a.** *Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity*

**8.02 L. 2. a. 1)** Conditional use permit.

## **8.02 M. Recreation**

### **8.02 M. 1. Recreation – General Regulations**

**8.02 M. 1. a.** Shoreline recreational development is given priority and shall be primarily related to access to, enjoyment and use of the water and shorelines of the state.

**8.02 M. 1. b.** State-owned shorelines are particularly adapted to providing ecological study areas and other recreational uses for the public and shall be given special consideration when developing recreational uses in shoreline areas.

**8.02 M. 1. c.** The location, design and operation of shoreline recreational developments shall be primarily related to access, enjoyment and use of the water and shorelines of the state, consistent with the comprehensive plan and recreation plan of the local government with jurisdiction. All such uses shall not result in a net loss of shoreline function.

**8.02 M. 1. d.** Commercial recreational development shall comply with the provisions for commercial development Section 8.02 F Commercial.

**8.02 M. 1. e.** Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas shall be set back from the ordinary high-water mark as specified in the Development Standards Table (Table 8.1), unless it can be shown that such facilities are water dependent and the planned location will not adversely affect shoreline functions. Such facilities may be linked to the shoreline by walkways.

**8.02 M. 1. f.** Shoreline recreational developments shall maintain, and, when feasible, enhance or restore desirable shoreline features including those that contribute to shoreline ecological functions and processes, scenic vistas, and aesthetic values. Removal of healthy native vegetation to enhance views shall be allowed only in compliance under Section 8.02 LK. 1. i. 1).

**8.02 M. 1. g.** Recreational uses shall be designed to complement their environment and surrounding land and water uses.

**8.02 M. 1. h.** No recreational buildings or structures shall be built over water, other than water-dependent and/or public access structures such as piers, docks, bridges, boardwalks, or viewing platforms.

**8.02 M. 1. i.** Each development proposal shall include a landscape plan that uses native, or native compatible self-sustaining vegetation. Removal of on-site native vegetation shall be limited to the minimum necessary for the permitted development or structures.

**8.02 M. 1. j.** For recreational uses such as golf courses or parklands that require the use of fertilizers, pesticides, or other chemicals, the applicant shall specify the methods that will be used to ensure that the use complies with all provisions of this master program, including preventing the chemicals from entering adjacent water bodies or wetlands. Chemical-free buffer strips may be required at the discretion of the Administrator.

**8.02 M. 1. k.** Recreational uses shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths, where those facilities will not result in loss of shoreline ecological functions.

**8.02 M. 1. l.** Recreational uses shall include adequate provisions for water supply, sewage, garbage disposal, and fire protection.

**8.02 M. 1. m.** Recreational development shall include adequate provisions, such as screening, buffer strips, fences, and signs, to buffer adjacent private property and natural areas and protect the value and enjoyment of those sites.

**8.02 M. 1. n.** Trails and paths on steep slopes shall be located, designed, and maintained to protect bank stability.

**8.02 M. 1. o.** Recreational uses shall be consistent with local comprehensive plan provisions and zoning regulations and required buffer and use setbacks in Section 8.01 A.16 and critical area protection regulations in contained herein.

**8.02 M. 1. p.** Non-motorized recreation trails shall be allowed in the Zone 2 Buffer provided they are consistent with the local comprehensive plan and zoning regulations and the regulations contained herein. Non-motorized, non-impervious surface trails no greater than the minimum width required by state and/or federal statute for the type of facility (e.g. ADA requirements) to provide shoreline access may be allowed in the Zone 1 buffer through the submittal of a vegetation planting plan, mitigation management plan and compliance with mitigation sequencing standards found in Chapter 11.

**8.02 M. 1. q.** No recreational uses are allowed that require fill.

### **8.02 M. 1. Recreation - Designation Specific Requirements:**

#### **8.02 M. 2. a. *Aquatic***

**8.02 M. 2. a. 1)** Recreation development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation – conditional use permit.

#### **8.02 M. 2. b. *Natural***

**8.02 M. 2. b. 1)** High and medium intensity recreation: Prohibited

**8.02 M. 2. b. 2)** Low intensity recreation: CUP

#### **8.02 M. 2. c. *Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity***

**8.02 M. 2. c. 1)** Substantial development permit.

## **8.02 N. Residential Development**

### **8.02 N. 1. Residential Development – General Regulations**

**8.02 N. 1. a.** No lot for residential use shall be created that would not accommodate a buildable area, based on the zoning district, comprehensive plan designation and critical areas regulations, that meets the minimum building setback and other standards for the shoreline designation in which the lot is located.

**8.02 N. 1. b.** No lots or plats will be approved that do not meet the minimum requirements of this SMP.

**8.02 N. 1. c.** Plats and subdivisions shall not rely upon new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

**8.02 N. 1. d.** In its review of proposals for multi-lot and or multi-unit subdivisions and/or planned developments and other large developments, the city or town with jurisdiction shall require and use information about the impacts of the proposed development on shoreline ecological functions, including the cumulative impacts of exempt uses and activities within the development over time, and ensure there will be no net loss of shoreline function.

**8.02 N. 1. e.** All single family and multi-unit residential developments shall comply with the buffer, setback, bulk and dimensional standards set forth in Table 8.1 of this SMP, and shall be authorized only after approval of a site development plan, indicating the total disturbance footprint as required by this section. The disturbance footprint shall include:

**8.02. N. 1. e. 1)** all driveways and parking areas;

**8.02. N. 1. e. 2)** wildfire defensible space;

**8.02. N. 1. e. 3)** building footprint(s);

**8.02. N. 1. e. 4)** water access pathway location and width, not to exceed 4 feet;

**8.02. N. 1. e. 5)** location of storage and staging of materials and equipment during construction;

**8.02. N. 1. e. 6)** location of well and septic systems, if applicable.

**8.02 N. 1. f.** The construction of home(s) (inside the buffer or utilizing a buffer\_reduction) shall require preparation of a critical areas report and mitigation management plan as described in Section 11.01 B. 3.

**8.02 N. 1. g.** Location of the landward boundary of shoreline buffers as specified in Table 8.1 shall be approved by the Administrator or Washington Department of Ecology staff, and marked with permanent or temporary fencing\_sufficient to prevent any incidental incursion into, or disturbance of the buffer, by equipment, vehicles, building materials or other means.

**8.02 N. 1. h.** Buildings constructed in areas of 20 percent or greater slope, or slide-prone areas, shall conform to the requirements for geologically hazardous areas.

**8.02 N. 1. i.** Except for minimal pathways no greater than 4 feet in width to afford access to allowed docks, boat access or swimming areas or to remove hazard trees as set forth in Section 8.01 A. 16., native plant communities and species in buffers specified in Table 8.1 shall not be disturbed for any reason.

**8.02 N. 1. j.** New parcels/lots created through land division within jurisdiction of this SMP shall accomplish the following:

**8.02 N. 1. j. 1)** Plats and subdivisions as regulated elsewhere in this SMP must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

**8.02 N. 1. j. 2)** Plats and subdivisions as regulated elsewhere in this SMP must be designed, configured and developed in a manner that assures that no need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas (E.g., Slopes-greater than 20%, Channel Migration Zones- See Appendix G). New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

**8.02 N. 1. j. 3)** Plats and subdivisions as regulated elsewhere in this SMP must be designed and configured such that a buildable area is available on each lot in conformance with Comprehensive Plan as well as required shoreline and critical area buffer/setbacks, unless a specific, unbuildable lot is being created as a shoreline open space/conservancy lot and is so recorded.

## **8.02 N. 2. Residential Development - Designation Specific Regulations**

**8.02 N. 2. a. *Aquatic and Natural***

**8.02 N. 2. a. 1)** Residential development prohibited.

~~8.02 N. 2. a. 2) — Subdivisions (both short and long) shall be subject to a conditional use permit and require the division to be processed as a planned development under local zoning and platting regulations.~~

**8.02 N. 2. b. *Urban Conservancy***

**8.02 N. 2. b. 1)** Exempt single-family dwellings (SDU) are allowed. Non-exempt SDUs are prohibited. Multi-family Residential development requires Conditional Use Permit.

**8.02 N. 2. b. 2)** Subdivisions (both short and long) shall be subject to a conditional use permit and require the division to be processed as a planned development under local zoning and platting regulations.

**8.02 N. 2. c. *Shoreline Recreation, Shoreline Residential and High Intensity***

**8.02 N. 2. c. 1)** Exempt<sup>17</sup> for Single Family Residences built for the applicant's own use or for the use by of his/her family

**8.02 N. 2. c. 2)** All other residential development requires a Substantial development permit.

**8.02 N. 2. c. 3)** Subdivisions are allowed.

**8.02 O. Signage**

**8.02 O. 1. Signage – General Regulations**

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment; and to temporary and interpretive signs. Highway, public information, and temporary signs are addressed in the Use Chart.

**8.02 O. 1. a.** All signs shall comply with applicable regulations of the City and any other applicable regulations (e.g., Scenic Vistas Act).

**8.02 O. 1. b.** Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Except as necessary for safe navigation, moorage, or public safety signs shall be located landward of the required building setback.

**8.02 O. 1. c.** All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

**8.02 O. 1. d.** No signs shall be placed on trees or other natural features that will permanently damage or kill tree or feature.

**8.02 O. 1. e.** Off premises and non-appurtenant signs shall not be permitted, with the following exception: temporary signs and interpretive signs related to shoreline uses and ecological functions shall be allowed where they comply with the other policies of this SMP and, in the case of temporary signs, where adequate provisions are made for timely removal.

**8.02 O. 1. f.** No sign shall have a surface area larger than 36 square feet.

**8.02 O. 1. g.** Lighting of signs shall be prohibited unless the sign is necessary for safe navigation, moorage, or public safety. On-demand lighting shall be used whenever feasible.

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17 - An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program, the regulation contained herein and the Shoreline Management Act

## **8.02 O. 2. Signage - Designation Specific Regulations**

### **8.02 O. 2. a. *Aquatic and Natural***

**8.02 O. 2. a. 1)** All outdoor advertising, signs and billboards shall be prohibited with the exception of public highway, safety, directional and informational signs.

### **8.02 O. 2. b. *Shoreline Residential and Urban Conservancy***

**8.02 O. 2. b. 1)** All outdoor advertising, signs and billboards shall be prohibited except:

- i. Those signs necessary to protect the health, safety, and welfare of the public.
- ii. Those necessary to give direction or identify and/or interpret a natural or cultural feature.
- iii. Permitted signs shall not exceed 6 square feet in surface area.
- iv. Permitted signs shall not exceed 6 feet in height.
- v. Outdoor lighting of signs in the Urban Conservancy designation shall be prohibited

### **8.02 O. 2. c. *Shoreline Recreation and High Intensity***

**8.02 O. 2. c. 1)** Outdoor advertising, signs and billboards are allowed subject to a substantial development permit and shall not exceed 36 sq. feet.

**8.02 O. 2. c. 2)** All signs (except for navigation aids), shall be located landward of the Zone 1 Vegetation Buffer.

## **8.02 P. Transportation**

### **8.02 P. 1. Transportation – General Regulations**

Transportation development serving non-water dependent uses should avoid the shoreline area where possible to avert damage to shoreline ecological function. Transportation development serving water oriented and water related uses shall be considered as part of that use and subject to the following provisions:

**8.02 P. 1. a.** Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

**8.02 P. 1. a. 1)** New roads or road expansions should not be built within shoreline jurisdiction, unless other options are unavailable and infeasible. Design of roadways through shoreline areas should occupy the least narrow horizontal profile possible to convey traffic in a safe manner measured from ditch to ditch or shoulder to shoulder (whichever is largest) to minimize the footprint of roadway.

**8.02 P. 1. a. 2)** Stormwater runoff from roadways should be contained using Best Management Practices

**8.02 P. 1. a. 3)** De-icing, salting, and graveling of roads should be conducted in accordance with Best Management Practices.

**8.02 P. 1. a. 4)** Surfacing materials should not input or erode sediment into waterways.

**8.02 P. 1. b.** Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

**8.02 P. 1. c.** Circulation system planning shall include integrated corridors for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

**8.02 P. 1. d.** Transportation and circulation systems shall be applied for at same time the primary development permit is being applied for complying with lot clearing and impervious surface standards found in this SMP Table 8.1.

### ***TABLE 8.4 SHORELINE USE & ACTIVITY TABLE***

All uses and activities must comply with all applicable provisions of this Shoreline Master Program (SMP), including the General, Shoreline Modification, Use-Specific, and Shoreline Designation-Specific regulations in this Chapter. Uses and activities not listed in the Shoreline Use and Activity Chart may be allowed (with a shoreline exemption, substantial development permit, or conditional use permit), subject to approval by the Administrator, if they comply with the standards in this section and with any regulations that apply to similar uses. All shoreline permits and exemptions are subject to conditions providing for maintenance, enhancement, and/or restoration of shoreline functions.

A = Allowed – requires exemption<sup>18</sup>; or, Substantial Development or Conditional Use Permit, depending on fair market value and/or intensity of use or activity, or designation-specific requirements

SDP = Shoreline Substantial Development Permit required.

CUP = Shoreline Conditional Use Permit required.

X = Prohibited use

S = Same as in adjacent shoreline designation landward of the OHWM (applicable to areas designated Aquatic only)

(a) In the event that there is a conflict between the use(s) identified in Table 8.4 and the policies or regulations in Chapters 6, 7, or 8, the policies and regulations shall apply.

(b) Aquatic: Water-dependent use only, subject to the use and development regulations of the abutting upland shoreline area designation.

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<sup>18</sup> - exempt uses and activities are defined by statute, see definitions in Chapter 2.

**Table 8.4 Use and Activity Chart<sup>(a)</sup>**

Uses and Activities	Aquatic <sup>(b)</sup>	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
<b><i>Utilities</i></b>						
Primary (Section 8.02 L)	CUP	CUP	CUP	CUP	SDP	SDP
Accessory (Section 8.02 A)	X <sup>19</sup>	SDP	S	S	S	S
<b><i>Agriculture (Section 8.02 B)</i></b>						
Grazing/Cultivation/Orchards	X	X	A	A	A	A
Agricultural Buildings	X	X	A	A	A	A
Feedlots (CAFOS/AFOS)	X	X	X	X	X	X
Conversion from non-agricultural land to agricultural use	X	X	SDP	SDP	SDP	SDP
<b><i>Archaeological Areas, Scientific, Educational and Historic Sites (Section 8.02 C)</i></b>						
Archaeological Areas, Scientific, Educational and Historic Sites	A	A	A	A	A	A
<b><i>Aquaculture (Section 8.02 D)</i></b>						
Floating Net Pen type & Accessory structures	CUP	CUP	X	SDP	X	SDP
On shore, confined types of facilities & Accessory structures	CUP	CUP	X	SDP	SDP <sup>20</sup>	SDP
<b><i>Boating Facilities (Section 8.02 E)</i></b>						
Marinas	S	X	CUP	CUP	CUP	CUP
Piers and Docks	S	X	SDP	SDP	SDP	SDP
Covered Moorage (Boat canopies)	S	X	CUP	CUP	CUP	CUP
Covered Moorage (Boat garages)	X	X	X	X	X	X
Commercial Wet Moorage	S	CUP	CUP	CUP	X	SDP
Commercial dry boat storage	S	SDP	SDP	X	X	SDP
<b>Boat Launch Ramps</b>						
Commercial	S	X	SDP	X	X	SDP
Public	S	X	SDP	SDP	SDP	SDP
Private, hard surfaced for motorized water craft launching	X	X	X	X	X	X
Private, low impact gravel or cobble for hand launching water craft	S	SDP	SDP	SDP	SDP	SDP
Boat lifts	S	X	SDP	SDP	SDP	SDP

<sup>19</sup> Accessory utilities shall be prohibited except those required to serve a permitted water dependent use, which shall require a conditional use permit.

<sup>20</sup> Requires minimum parcel size of 2 acres.

Uses and Activities	Aquatic (b)	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
Mooring buoys/float plane moorage accessory to permitted moorage	S	CUP	SDP	CUP	SDP	SDP
Floats	S	CUP	SDP	CUP	SDP	SDP
<b>Commercial Development (Section 8.02 F)</b>						
Water-dependent	CUP	X	SDP	SDP	SDP	SDP
Water-related/water-enjoyment	X	X	SDP	SDP	SDP	SDP
Non-water Oriented	X	X	X	X	X	X <sup>21</sup>
<b>Industry (Section 8.02 G)</b>						
Water-dependent	S	X	X	X	X	SDP
Water-related	S	X	X	X	X	SDP
Nonwater Oriented	S	X	X	X	X	X <sup>15</sup>
<b>Mining (Section 8.02 H)</b>						
Surface Mining	S	X	X	X	X	X
Other Mining	S	X	X	X	X	X
Mineral Prospecting and Placer Mining <sup>22</sup>	A	A	A	A	A	A
<b>Municipal Uses (Section 8.02 I)</b>						
Water-dependent	S	X	SDP	SDP	SDP	SDP
Water-related/water-enjoyment	X	X	SDP	SDP	SDP	SDP
Non-water Oriented	X	X	CUP	CUP	SDP	SDP
<b>Parking (Section 8.02 J)</b>						
Parking appurtenant to existing permitted use	X	X	S	CUP	S	S
Parking as a primary use	X	X	X	X	X	X
Commercial parking	X	X	X	X	X	X
<b>Public Access (Section 8.02 K)</b>						
High Impact	S	X	SDP	CUP	SDP	SDP
Medium Impact	S	CUP	SDP	SDP	SDP	SDP
Low Impact	S	SDP	SDP	SDP	SDP	SDP
<b>Recreation (Section 8.02 M)</b>						
High Intensity (non-water-oriented)	S	X	SDP	SDP	SDP	SDP
High Intensity (water-oriented)	S	CUP	SDP	SDP	SDP	SDP
Medium Intensity	C	CUP	SDP	SDP	SDP	A
Low Intensity / Passive	S	A	A	A	A	A
<b>Residential (Section 8.02 N)</b>						

21 unless approved using Section 8.02 F. 1. c.

22 If performed in compliance with WDFW Gold and Fish Pamphlet, all others CUP

Uses and Activities	Aquatic (b)	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
Exempt single family dwellings <sup>23</sup>	X	X	A	A	A	A
Non-exempt single-family dwellings (e.g. seasonal or year round rentals)	X	X	SDP	X	SDP	SDP
Multi-family	X	X	SDP	CUP	SDP	SDP
Subdivision	<del>SX</del>	X	A	CUP	A	A
<b>Signage (Section 8.02 O)</b>						
Commercial Signs – on site advertising <sup>24</sup>	X	X	SDP	X	SDP	SDP
Commercial Signs- off-site advertising	X	X	X	X	X	X
Public Highway, Safety, Directional and Informational Signs	A	A	A	A	A	A
<b>Transportation (Section 8.02 P)</b>						
Roads and Railroads	S	CUP	SDP	SDP	SDP	SDP
<b>Shoreline Modifications (Section 8.03)</b>						
Dikes/levees (8.03 E)	S	CUP	CUP	CUP	CUP	CUP
Breakwaters, groins and jetties (8.03 F)	S	CUP	CUP	CUP	CUP	CUP
Dredging and Material Disposal <sup>25</sup> (8.03 C)	S	CUP	CUP	CUP	CUP	CUP
Filling <sup>26</sup> (8.03 D)	S	CUP	SDP	SDP	SDP	SDP
Clearing and Grading <sup>27</sup> (8.03 B)	X	X	CUP	CUP	CUP	CUP
Bulkheads and revetments (8.03 F)	S	X	CUP	CUP	CUP	CUP
Shoreline Restoration and Enhancement <sup>28</sup> (8.03 A)	S	A	A	A	A	A
<b>Shoreline Stabilization (8.03E)</b>						
Hardening, Structural approaches	CUP	CUP	CUP	CUP	CUP	CUP
Bioengineering approaches	S	SDP	SDP	SDP	SDP	SDP
Shoreline Restoration and Enhancement <sup>18</sup>	S	SDP	SDP	SDP	SDP	SDP

23 RCW 90.58.030(3)(e)(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence (inclusive of accessory utilities) for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter (SEE WAC 173-26-211(5)(a)(ii)(C))

24 SDP requirement is only applicable to signs over the dollar threshold for an exemption.

25 All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.

26 All fill is limited to the minimum amount required for existing permitted or proposed allowed uses.

27 Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another property or public right of way.

28 Restoration and enhancement projects may be exempted if part of an approved recovery plan.

### **8.03 Shoreline Modification Activities**

Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, dredging (shoreline modification) to allow for a marina (boating facility use).

#### **8.03 A. General (applicable in all shoreline designations)**

**8.03 A. 1.** All shoreline modification activities not in support of an existing conforming use or other allowed use are prohibited, unless it can be demonstrated, that such activities are necessary to protect primary structures and in the public interest or are for the maintenance, restoration or enhancement of shoreline ecological functions.

**8.03 A. 2.** Shoreline modifications shall result in no net loss of shoreline ecological functions. The number and extent of shoreline modifications shall be limited to the minimum required.

**8.03 A. 3.** Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions shall be allowed. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. For example, planting vegetation that will stabilize the shoreline is preferred rather than a concrete bulkhead.

**8.03 A. 4.** Ecological impacts of shoreline modifications shall be mitigated in conformance with the regulations contained herein.

**8.03 A. 5.** All shoreline modification activities must conform to Section 8.01 General Regulations and the provisions for the appropriate shoreline designation.

#### **8.03 B. Clearing and Grading**

**8.03 B. 1.** Clearing and grading shall be addressed and identified in the permit or exemption application for the shoreline use or activity with which it is associated.

**8.03 B. 2.** Clearing or grading within required Zone 1 Vegetation and Zone 2 Use buffers and/or wetland buffers shall comply with the requirements of Section 8.01 A. and Tables 8.1 and 8.5.

**8.03 B. 3.** No clearing or grading shall be initiated before the permit, exemption or variance approval is issued.

**8.03 B. 4.** Existing native riparian vegetation shall be retained whenever possible.

**8.03 B. 5.** Grading permits:

**8.03 B. 5. a.** A grading permit issued by the local government with jurisdiction shall be required in the following situations:

**8.03 B. 5. a. 1)** Where more than 50 cubic yards of material will be moved within a shoreline area for any reason; or

**8.03 B. 5. a. 2)** Any clearing or grading within building setbacks or buffers.

**8.03 B. 5. a. 3)** Where clearing and grading will modify a percentage of a site's shoreline area landward of the building setback that is greater than the percentage or square footage (whichever is greater) specified in Table 8.5.

**8.03 B. 5. b.** An increase of up to 25% cleared and graded area may be permitted through the submittal of a critical areas report and mitigation plan that demonstrates the grading and clearing will

not impact the shoreline ecological function or value.

**Table 8.5 Shoreline Designation Specific Clearing and Grading Standards<sup>29</sup>**

Shoreline Designation	Percent of site located within shoreline jurisdiction that may be cleared and/or graded <sup>30</sup>
High Intensity	50%
Shoreline Residential	50%
Urban Conservancy	15%
Shoreline Recreation	50%
Natural	5%
Aquatic	N/A

**8.03 B. 6.** In its review of clearing and grading proposals, the City shall require and utilize a clearing and grading plan that addresses species removal, replanting, irrigation, storm water control (including runoff from structures and pervious surfaces), erosion and sedimentation control, and plans for protecting shoreline resources and that results in no net loss of ecological function.

**8.03 B. 7.** Grading of a development site shall not alter natural drainage patterns in manner that would increase the rate or quantity of surface run-off. Such grading activities shall require a grading plan compliant with storm water best management practices.

**8.03 B. 8.** Immediately upon completion of the construction or maintenance activity, remaining cleared areas shall be restored to a naturalistic condition using compatible, self-sustaining vegetation in accordance with Section 8.03 G Vegetation Conservation.

**8.03 B. 9.** Clearing by hand-held equipment of invasive non-native vegetation on the State Noxious Weed List is permitted in shoreline areas provided the disturbed area is promptly replanted with vegetation from the recommended list (Appendix E) or if the site will fully re-vegetate with plants that will support healthy shoreline function on its own within three growing seasons.

**8.03 B. 10.** All shoreline development and activity shall use applicable BMPs from Eastern Washington Stormwater Management to minimize increases in surface water runoff that may result from clearing and grading activity.

**8.03 B. 11.** Soil stabilization associated with clearing and grading shall, whenever feasible, use bioengineering or other soft stabilization techniques.

**8.03 B. 12.** Any significant placement of materials from off of the site, or substantial creation or raising of dry upland, shall be considered filling and shall comply with the fill provisions of Section 8.03 D Fill.

**8.03 B. 13.** Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another

29 - The standards in the table provide for the maximum percentage that may be cleared outside of Vegetation and Use Buffers.

30 - The percentages represent the maximum allowable with an increase of up to 25% permitted subject to a critical areas report and mitigation management plan that considers present ecological function, cumulative impacts of the development and restoration opportunities, both on and off-site, DOES NOT INCLUDE CLEARING WITHIN THE ZONE 1 or ZONE 2 BUFFERS.

developed property or developed public right of way.

### **8.03 C. Dredging and Dredge Material Disposal**

**8.03 C. 1.** The City shall require and use the following information in its review of shoreline dredging and dredge material disposal proposals:

- 8.03 C. 1. a.** Dredging volumes, methods, schedules, frequency, hours of operation, and procedures.
- 8.03 C. 1. b.** Analysis of material to be dredged in compliance with Model Toxics Control Act.
- 8.03 C. 1. c.** Method of disposal, including the location, size, capacity, and physical characteristics of the disposal site, transportation methods and routes, hours of operation, and schedule.
- 8.03 C. 1. d.** Stability of bedlands adjacent to the proposed dredging site.
- 8.03 C. 1. e.** Stability of geologically hazardous areas in the vicinity of the proposed dredging site.
- 8.03 C. 1. f.** Assessment of water quality impacts.
- 8.03 C. 1. g.** Habitat assessment meeting the standards prescribed for Fish and Wildlife Habitat Conservation Areas in Critical Areas regulations contained in this chapter including migratory, seasonal, spawning, migration, wetland and riparian use areas.

**8.03 C. 2.** In evaluating permit applications for any dredging project, the Administrator and/or appropriate hearing or review body shall consider the need for and adverse effects of the initial dredging, subsequent maintenance dredging, and dredge disposal. Dredging and dredge material disposal shall only be permitted where it is demonstrated that the proposed actions will not:

- 8.03 C. 2. a.** Result in significant and/or on-going damage to water quality, fish, or other biological elements;
- 8.03 C. 2. b.** Adversely alter natural drainage and circulation patterns, or significantly reduce flood storage capacities;
- 8.03 C. 2. c.** Affect slope stability; or
- 8.03 C. 2. d.** Otherwise damage shoreline or aquatic resources.

**8.03 C. 3.** Proposals for dredging and dredge disposal shall prepare a mitigation management plan that includes measures to protect fish and wildlife habitat and other critical areas in compliance with the regulations herein that includes measures to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials, or toxic substances; dissolved oxygen depletion; or disruption of food chains.

**8.03 C. 4.** Dredging and dredge material disposal shall not occur in wetlands except as authorized by Conditional Use Permit in compliance with the regulations herein with conditions providing ~~that~~ valuable functions of the wetland, such as wildlife habitat and natural drainage, will not be diminished.

**8.03 C. 5.** Dredging waterward of the ordinary high-water mark shall be allowed by conditional use permit only when:

- 8.03 C. 5. a.** It has been proven that the development cannot be sited elsewhere and has been designed to avoid and minimize new and maintenance dredging (WAC 173-26-231(3)(f))
- 8.03 C. 5. b.** For navigation or existing navigational access;
- 8.03 C. 5. c.** In conjunction with a conforming allowed water-dependent use of water bodies or

adjacent shorelands;

**8.03 C. 5. d.** As part of a habitat management plan that has been approved by the City, and has been accepted by the Washington Department of Fish and Wildlife or other agency with jurisdiction;

**8.03 C. 5. e.** To improve water quality;

**8.03 C. 5. f.** For mining, mineral extraction, mineral prospecting and placer mining as provided in Section 8.03 H Mining;

**8.03 C. 5. g.** In conjunction with a bridge or a navigational channel, basin, or structure for which there is a documented public need and where other feasible sites or routes do not exist; or

**8.03 C. 5. h.** To improve water flow and/or manage flooding only when consistent with an approved flood and/or stormwater comprehensive management plan in conjunction with a habitat mitigation management plan.

**8.03 C. 6.** Any impacts of dredging that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

**8.03 C. 7.** Dredging shall use techniques that cause the minimum dispersal and broadcast of bottom material.

**8.03 C. 8.** Dredging for the primary purpose of obtaining material for fill is prohibited, except when the material is necessary for the restoration of ecological functions. The fill must be associated with a significant habitat enhancement project that is listed as part of a regional or watershed-scale plan, MTCA or CERCLA habitat restoration project. When allowed, the site where the fill is to be placed must be located waterward of the OHWM (WAC 173-26-231(3)(f)) and conducted in accordance with the dredged material management program of the department of natural resources.

**8.03 C. 9.** Dredging to construct canals or basins for boat moorage or launching, water ski landings, swimming holes, and similar uses shall only be permitted as a conditional use and shall include a habitat enhancement/mitigation plan.

**8.03 C. 10.** Disposal of dredged materials shall be accomplished at approved contained upland sites in compliance with all Federal, State and local regulations.

**8.03 C. 11.** Depositing dredge materials in water areas shall be allowed only by Conditional Use Permit, for one or more of the following reasons:

**8.03 C. 11. a.** For wildlife habitat improvement.

**8.03 C. 11. b.** To correct problems of material distribution adversely affecting fish resources.

**8.03 C. 11. c.** For permitted enhancement of beaches that provide public access, where it has been conclusively demonstrated that no net loss of shoreline ecological functions will result or for public safety.

**8.03 C. 12.** Use of dredged material for beach enhancement shall be conducted so that:

**8.03 C. 12. a.** Erosion from the disposal site is minimized. Erosion of the dredged material shall not smother emergent vegetation or other shallow productive areas.

**8.03 C. 12. b.** To the extent possible, the volume of dredged material and frequency of disposal maintain a stable beach profile. Dredged material shall be graded as a uniform slope and contoured to reduce cove and peninsula formation and to preclude stranding of juvenile fish.

**8.03 C. 13.** Land disposal sites shall be replanted as soon as feasible, and in no case later than the

next planting season, in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Vegetation from the recommended list (Appendix E) or other species authorized by the City shall be used. Native plants are preferred. Plants that may compromise shoreline values are prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The agency or developer responsible for the land disposal shall also be responsible for maintaining the vegetation as established in the approved mitigation management plan.

**8.03 C. 14.** Proposals for disposal in the channel migration zone is discouraged and only allowed by Conditional Use Permit (WAC 17-26-231(3)(f)). Disposal in other shoreline areas must provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning that benefits shoreline resources.

**8.03 C. 15.** Designation specific regulations.

**8.03 C. 15. a.** *Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity*

**8.03 C. 15. a. 1)** All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.

**8.03 D. Fill**

**8.03 D. 1.** The City shall require and use the following information in its review of fill proposals and the applicant shall submit the following on their permit or exemption application:

**8.03 D. 1. a.** Proposed use of the fill area.

**8.03 D. 1. b.** Physical characteristics, such as chemical and biological composition if appropriate, depending on where it is to be placed or will be subject to inundation.

**8.03 D. 1. c.** Source of the fill material.

**8.03 D. 1. d.** Method of placement and compaction.

**8.03 D. 1. e.** Location of fill relative to existing drainage patterns and wetlands.

**8.03 D. 1. f.** Location of the fill perimeter relative to the ordinary high-water mark.

**8.03 D. 1. g.** Perimeter erosion control or stabilization measures.

**8.03 D. 1. h.** Type of surfacing and runoff control devices.

**8.03 D. 2.** Fill waterward of the ordinary high-water mark or in wetlands shall only be permitted as a conditional use in all shoreline designations, and only when necessary for one of the following purposes:

**8.03 D. 2. a.** water-dependent use,

**8.03 D. 2. b.** public access,

**8.03 D. 2. c.** cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,

**8.03 D. 2. d.** disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources,

**8.03 D. 2. e.** expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project.

- 8.03 D. 2. f.** Fill in wetlands must comply with the wetlands provisions of this SMP and shall result in no net loss of wetland area in functions including lost time when the wetland does not perform the function and is subject to mitigation in this SMP.
- 8.03 D. 3.** Pier or pile support shall be utilized whenever feasible in preference to filling. Fills for approved road, bridge or navigational structure development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.
- 8.03 D. 4.** Fills are prohibited in floodplains except where it can be clearly demonstrated that the geohydraulic characteristics and floodplain storage capacity will not be altered to cause increased flood hazard or other damage to life or property in excess of accepted standards provided by state and/or federal agencies.
- 8.03 D. 5.** Fills are prohibited in floodways, and channel migration zone areas (See CMZ Map Appendix G) except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use, as specified in Section 8.03 D 2 above, and where permitted by the local jurisdiction's Critical Areas regulations and any other relevant regulations or plan (e.g., flood hazard prevention regulations or Comprehensive Flood Hazard Management Plan).
- 8.03 D. 6.** Fills shall be permitted only when it is demonstrated that the proposed action will not:
- 8.03 D. 6. a.** Result in significant damage to water quality or fish and wildlife habitat;
  - 8.03 D. 6. b.** Adversely affect natural drainage and circulation patterns or significantly reduce flood water capacities;
  - 8.03 D. 6. c.** Affect slope stability; or
  - 8.03 D. 6. d.** Otherwise damage shoreline or aquatic resources.
- 8.03 D. 7.** Placing fill in water bodies or wetlands to create usable land for shoreline development is prohibited and shall not be used to calculate parcel size proposed for subdivision.
- 8.03 D. 8.** Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetated buffer areas, or other methods, and shall be adequately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the fill and shall be maintained until self-sustaining. The design shall incorporate natural-appearing and self-sustaining control methods unless they can be demonstrated to be infeasible due to existing environmental conditions such as currents and weather.
- 8.03 D. 9.** Fill materials shall be sand, gravel, rock, soil, or similar materials. Use of polluted dredge spoils, solid waste, and sanitary landfill materials is prohibited.
- 8.03 D. 10.** Fills shall be designed to allow surface water penetration into ground water supplies where such conditions existed prior to fill. Fills shall not be permitted in aquifer recharge areas if they would have the effect of preventing percolation of the water.
- 8.03 D. 11.** The timing of fill construction shall be regulated to result in no net loss of shoreline ecological functions, including water quality and aquatic life.
- 8.03 D. 12.** Fill on dry land shall not result in substantial changes to patterns of surface water drainage from the project site and onto adjacent properties; within shoreline areas; into aquatic areas; or onto steep slopes or other erosion hazard areas.

**8.03 D. 13.** Designation specific regulations.

**8.03 D. 13. a.** *Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity*

**8.03 D. 13. a. 1)** All fill is prohibited except the minimum amount required for existing permitted or proposed allowed uses.

**8.03 D. 13. a. 2)** All permitted fill shall require a conditional use permit.

**8.03 E. Shoreline Stabilization** (See WAC 173-26-231(3)(a)(iii))

**8.03 E. 1.** New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivisions shall be reviewed to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

**8.03 E. 2.** New structural stabilization measures shall not be allowed<sup>31</sup> except to protect an existing primary structure when all of the conditions below apply:

**8.03 E. 2. a.** New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

**8.03 E. 2. b.** The erosion control structure will not result in a net loss of shoreline ecological functions.

**8.03 E. 3.** New shoreline stabilization for water-dependent development shall not be allowed except when all of the conditions below apply:

**8.03 E. 3. a.** The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

**8.03 E. 3. b.** Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

**8.03 E. 3. c.** The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

**8.03 E. 3. d.** The erosion control structure will not result in a net loss of shoreline ecological functions.

**8.03 E. 4.** New structural stabilization measures shall not be allowed for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW except when

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<sup>31</sup> Except for approved habitat restoration or enhancement projects

all of the conditions below apply:

**8.03 E. 4. a.** Nonstructural measures, planting vegetation or installing on-site drainage improvements are not feasible or not sufficient;

**8.03 E. 4. b.** The erosion control structure will not result in a net loss of shoreline ecological functions.

**8.03 E. 5.** Use of shoreline stabilization measures to create new land is prohibited including creation of new lots that will require shoreline stabilization in order to allow development.

**8.03 E. 6.** An existing shoreline stabilization structure may be replaced with a similar structure<sup>32</sup> if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

**8.02 E. 6. a.** The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

**8.02 E. 6. b.** Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

**8.02 E. 6. c.** Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

**8.02 E. 6. d.** For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

**8.03 E. 7.** A geotechnical report prepared to address the need to prevent potential damage to a primary structure shall address the City's standards for a critical areas report (See Chapter 11) for geologically hazardous areas as well as the issues below.

**8.03 E. 8.** Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.

**8.03 E. 9.** Hard armoring solutions shall not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three years as a result of shoreline erosion in the absence of hard armoring measures, or ~~where~~ waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

**8.03 E. 10.** Shoreline stabilization shall not be allowed for new uses if it would cause a net loss of shoreline ecological functions on the site, or within the watershed; or if it would cause significant ecological impacts to adjacent properties or shoreline areas. Those impacts include accelerated erosion of adjacent properties caused by the stabilization measures.

**8.03 E. 11.** New uses, including exempt uses, in areas above unstable slopes and moderately unstable

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<sup>32</sup> Said replacement structure shall be engineered and designed to address the issues of the failure of the existing structure

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.

**8.03 E. 12.** Where structural shoreline stabilization measures are shown to be necessary, the extent of the stabilization measures shall be limited to the minimum necessary.

**8.03 E. 13.** Stabilization measures shall be designed to minimize harm to and as much as possible restore ecological functions. Lost functions shall be mitigated to ensure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated to be insufficient to protect the primary structure or structures.

**8.03 E. 14.** Where stabilization is necessary to alleviate erosion caused by removal of vegetation, vegetative stabilization measures shall be the only stabilization measures allowed, except where a report by a qualified professional is submitted. See Section 8.03 G Vegetation Conservation.

**8.03 E. 15.** Where feasible, ecological restoration and public access improvements shall be incorporated into public projects. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

**8.03 E. 16.** All applicable federal, state, and local permits shall be obtained and complied with in the construction of shoreline stabilization measures. All permits must be issued before any stabilization work takes place.

**8.03 E. 18.** Designation specific regulations.

**8.03 E. 18. a. *Natural***

**8.03 E. 18. a. 1)** Dikes/levees, breakwaters, groins and jetties are prohibited.

**8.03 E. 18. b. *Aquatic, Shoreline Recreation, Shoreline Residential and High Intensity***

**8.03 E. 18. b. 1)** Dikes/levees, breakwaters, groins and jetties shall require a conditional use permit.

**8.03 E. 18. c. *Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity***

**8.03 E. 18. c. 1)** Bioengineering approaches shall require a substantial development permit.

**8.03 F. Bulkheads**

**8.03 F. 1.** All bulkheads are also subject to the provisions of Sections 8.01 A and 8.03 A, 8.03 E and 8.03 G.

**8.03 F. 2.** New or enlarged bulkheads for an existing principal structure or use, including residences and accessory structures, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared according to the local jurisdiction's standards for a critical areas report for geologically hazardous areas, that the principal structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage in a manner that does not degrade shoreline function before considering structural shoreline stabilization. The project design and analysis shall also evaluate vegetation enhancement as a means of reducing undesirable erosion. The geotechnical analysis shall demonstrate that the stabilization measure chosen is the least intrusive means that will be sufficient to achieve stabilization. The geotechnical analysis shall evaluate impacts that could pose stabilization problems to neighboring

properties.

**8.03 F. 3.** An existing bulkhead may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. In this case, demonstration of need does not necessarily require a geotechnical report; need must, however, be demonstrated using documentable information sources. The replacement structure shall be designed, located, sized, and constructed to ensure no net loss of ecological functions. Replacement bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to the date of adoption of this SMP, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. The Administrator may permit vegetative stabilization that restores ecological functions waterward of the ordinary high-water mark.

**8.03 F. 4.** A bulkhead-type structure used to stabilize a dock may be permitted, but the size shall be limited to the minimum necessary for the dock. The stabilization structure shall not exceed 1' wider than the gangplank or pier structure on each side nor shall it exceed 6' landward in total distance from the OWHM into the shoreline area.

**8.03 F. 5.** Designation specific regulations

**8.03 F. 5. a.** *Aquatic, Natural*

**8.03 F. 5. a. 1)** Bulkheads shall be prohibited.

**8.03 F. 5. b.** *Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity*

**8.03 F. 5. b. 1)** Bulkheads shall require a conditional use permit.

## **Chapter 9**

# **Cumulative Impact Analysis**

### **Background**

RCW 90.58 requires that local shoreline master programs (SMPs) updated to meet the new guidelines require a cumulative impact analysis to determine if the proposed regulations will result in no net loss of shoreline function.

This analysis represents the culmination of nearly four years of effort to review, update and prepare a regional Shoreline Master Program for the cities of Oroville, Tonasket, Omak, Okanogan, Brewster and Pateros and the towns of Twisp and Winthrop within Okanogan County.

The analysis builds upon data collected and analyzed during the inventory and characterization of the shorelines within the entirety of Okanogan County as well as the shoreline designation process and the County's and several city and towns efforts to update local comprehensive plans and zoning codes.

There are two significant parts of the analysis, separated in the same manner as the characterization: planning, physical and administrative factors such as zoning, parcel sizes and locations and types of structures (e.g. docks, bridges, pipelines, buildings), etc...; and, biological factors including the resources and stressors that affect shoreline function. As in the Characterization (see Chapter 4), the cumulative impact analysis was conducted through the combined efforts of Highlands Associates and ENTRIX, with Highlands the lead on planning factors and ENTRIX the biological processes (complete ENTRIX Report in Appendix A).

Highlands work on the planning factors was focused on developing projections for build-out and future land uses within the shoreline areas of Okanogan County and its incorporated municipalities. In order to complete this work a set of assumptions was developed and used to guide decisions about where and what type of development would occur in the county. The assumptions were subject to review by members of both the Technical and Shoreline Advisory Groups.

ENTRIX work focused on using the results of Highlands work to run a model to determine the impacts of development on shoreline functions under the proposed shoreline regulations.

### **Built-Out and Future Land Use Projections**

#### **Original Assumptions**

The build-out and future land use projections prepared by Highlands Associates went through several iterations as changes were made to the proposed draft County Comprehensive Plan and Zoning Code, more current parcel and land use data became available and final revisions were made to the proposed shoreline designations and regulations. In general each parcel in shoreline

jurisdiction within the county was assigned a build-out number and future land use using the following assumptions.

The build-out number represents the potential number of parcels that could be created under the proposed shoreline designations and regulations. Future land use codes were assigned based on several factors including comprehensive plan land use designation, existing land use patterns in the area, critical areas and access. Details on the original assumptions used to assign the build-out number and future land use code follow.

1. All parcels lying entirely or partially within the “maximum” definition for shoreline jurisdiction (those lands lying 200 feet landward on a horizontal plane from the OHWM or the 100-year floodplain, whichever is greater, plus associated wetlands). Okanogan County provided the parcel and shoreline jurisdiction boundaries used in the analysis.
2. All parcels lying entirely within mapped floodway areas were assigned a build-out of zero (0). Assumption relies on the fact that federal and state flood hazard reduction statutes generally limit all development in areas designated by FEMA as floodways.
3. All parcels located in the “Conservancy”, “Natural” and “Aquatic” designations were generally assigned a build-out of zero (0). This assumption is based on the fact that all of the parcels designated “Conservancy” are publically owned or have been placed in a conservation easement or platted open space or common area, however some privately owned parcels were assumed to be able to develop; all parcels designated “Natural” are generally publically owned or unbuildable by virtue of location (islands), however some are private owned and could potentially be developed (most are parcels outside of the Methow Review District and lie entirely within the 100-year floodplain); and, all parcels designated “Aquatic” lie below the ordinary-high-water-mark and are subject to the Shoreline Management Act limitation on overwater construction.
4. All parcels located entirely within the mapped 100-year floodplain were assigned a build-out of zero (0).
5. All parcels with existing developed uses (residential, recreation, commercial or industrial – based on Assessor’s Use Codes) less than twice the minimum lot size for the shoreline designation where they are located are assigned a build-out of zero (0). The assumption is that the parcel was already developed and impact associated with existing development was part of the baseline shoreline characterization and functionally classification.
6. All parcels without existing developed uses (based on Assessor’s Use Codes) less than twice the minimum lot size for the shoreline designation where they are located are assigned a build-out of one (1). Assumes all such parcels are buildable.
7. All parcels greater than or equal to twice the minimum lot size for the shoreline designation where they are located were identified then build-out assigned using the following assumptions:
  - a. Those parcels with less than twice the minimum shoreline frontage requirement for the shoreline designation where they are located were assigned a build-out of one (1)

- if the parcel was undeveloped (based on Assessor Use Codes) or a zero (0) if the parcel was developed (based on Assessors Use Codes).
- b. Those parcels with greater than or equal to the minimum shoreline frontage requirements for the shoreline designation where they are located required that shoreline frontage to be measured (using 2006 aerial photos registered to the county parcel layer) and the minimum lot size determined then build-out assigned based on existing shoreline development and the potential number of parcels that could be created based on a combination of minimum frontage and minimum lot size requirements.

For example a 20 acre parcel is located in a shoreline designation that requires a 5 acre minimum lot size and a 200 foot minimum frontage. The parcel has an existing residence (located within shoreline jurisdiction) and 450 feet of shoreline frontage. While the minimum lot size requirement would allow up to four lots to be created, the shoreline frontage requirement limits the total lots to two (2) within shoreline jurisdiction. This example parcel would have a build-out of one (1) for the undeveloped lot that could be created.

8. All parcels were assigned a future land use code based on adopted City, Town or County comprehensive plan land use designations.
9. Future land uses were categorized as low, medium or high intensity with land uses including residential, commercial, industrial, agriculture, resource, mixed residential/agriculture, mixed residential/commercial, etc..... using the following information (based on adopted and draft maps, aerial photos, personal knowledge and professional judgment):
  - a. Local comprehensive plan designation
  - b. Existing development patterns
  - c. Access to state or improved county roads
  - d. Existence of critical areas (primarily steep slopes, flood hazard and wetlands)

## **Modified Assumptions**

These original assumptions were subsequently modified based on input from the Technical and Stakeholder Advisory Committees and local planners.

1. Only parcels lying entirely within the 100-year floodplain in the Methow Review District were assigned a build-out of zero (0) with those parcels lying entirely in 100-year floodplain elsewhere in the County assigned a build-out using the original assumptions.
2. Where local comprehensive plan designations and density standards conflict with shoreline designation requirements, the more stringent would apply. For example, the comprehensive plan designation allows 1acre lots, but the shoreline designation limits lot sizes to 5 acres, the shoreline lot size was used to assign build-out. Where the

comprehensive plan designation limits parcels to 20 acres, but the shoreline designations allows 1 acre lots, the comprehensive plan designation was used to assign build-out.

3. The proposed definition used to define the area of shoreline jurisdiction was changed to the “minimum” (200 feet on a horizontal plane from the floodway boundary). This change is only applicable to those areas with an official floodway on federal flood insurance rate maps.

## Methodology

The methodology for generating the data used in the planning factors component of the cumulative impact assessment required that each parcel within shoreline jurisdiction in Okanogan County and the cities and towns therein, be coded with the following basic data:

- existing or proposed comprehensive plan land use designation (includes density and use information)
- existing or proposed zoning district (includes minimum lot size and allowable uses)
- existing ownership verified
- percentage of parcel in mapped floodplain
- existing platted common areas and open space parcels identified
- existing conservation easement parcels identified
- location within a city or town corporate limits
- location within an adopted (by the city or town) urban growth area
- proposed shoreline designation
- proposed minimum shoreline lot size
- proposed minimum shoreline frontage

Given the elapsed time between the beginning of the characterization process and the cumulative impact assessment (nearly 3 years) the most current parcel data from Okanogan County was imported for use in the analysis. As a result of subdivision and boundary line adjustment activities the number of shoreline parcels increased over that time period. In addition, Okanogan County began working on a new comprehensive plan with several different drafts with changing land use designation maps being released during the period of time the data for the analysis was entered. This created additional work as the new or modified parcels had to be individually examined and coded with the basic data noted above.

Once the parcel data was coded with the basic data and deemed complete (duplicates removed, data verified) the process then turned to assigning build-out and future land use codes using the assumptions described above. As the assumptions were changed additional iterations of assigning build-out and future land use codes were required.

The other aspect of the planning component of the cumulative impact analysis was the assignment of a future land use for each parcel. This data, along with the build-out numbers were provided to ENTRIX for use in their modeling of cumulative impacts on shoreline functions resulting from development under the proposed SMP regulations. The following table (4.1) provides a summary of the build-out numbers for each shoreline designation. Table 4.2 provides a summary of the types of development that are projected to occur on the build-out parcels.

## Build-out Data Results for Pateros

The following table summarizes build-out data by shoreline designation. See map on following page for graphic illustration of the following data.

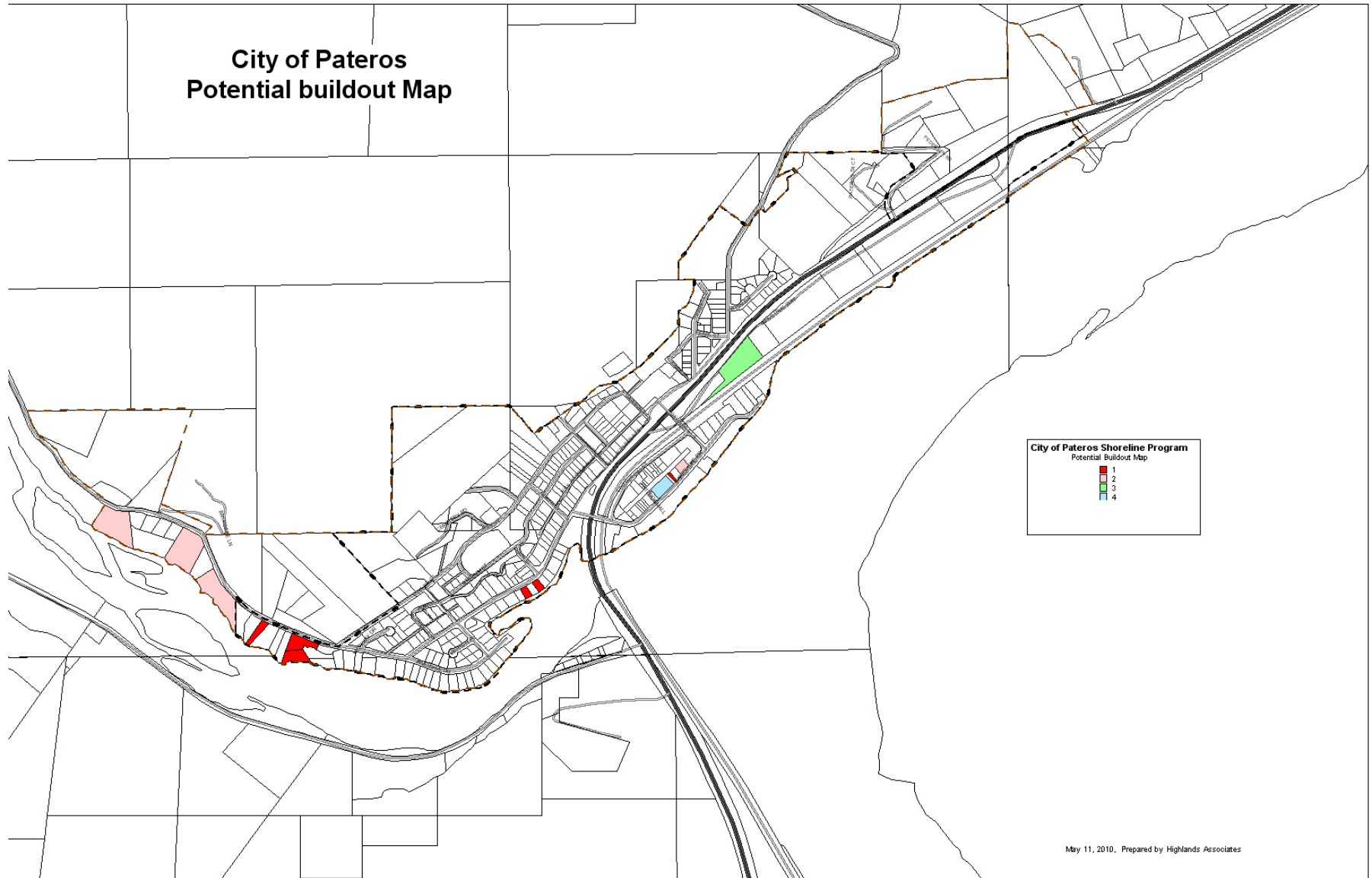
**Table 4.1**

Shoreline Designation	# of Parcels <sup>1</sup>		# of Parcels Currently Developed <sup>2</sup>		Potential Build-out <sup>3</sup>	
	City	UGA	City	UGA	City	UGA
Aquatic	N/A	N/A	N/A	N/A	N/A	N/A
Natural	0	0	0	0	0	0
Conservancy	0	0	0	0	0	0
Riverine/Lacustrine	0	0	0	0	0	0
Rural Resource	0	0	0	0	0	0
Rural Residential	0	0	0	0	0	0
Shoreline Recreation	4	0	0	0	0	0
Shoreline Residential	51	4	46	1	5	6
High Intensity	36	0	32	0	10	0
Urban Conservancy	1	1	1	1	0	0
<b>Totals</b>	<b>92</b>	<b>5</b>	<b>79</b>	<b>2</b>	<b>15</b>	<b>6</b>

<sup>1</sup> -includes all existing parcels (January 2009 County data) with any portion lying within shoreline jurisdiction

<sup>2</sup> -includes all parcels with Assessors Use Codes that indicate existing development, public lands, land under conservation easements and platted common areas or open space.

<sup>3</sup> -represents potential new parcels under proposed shoreline regulations.



May 11, 2010, Prepared by Highlands Associates

A review of the data in the table finds that at present approximately 86% and 40% of shoreline parcels in the city limits and UGA respectively are developed in some form and that the potential exists under the proposed shoreline regulations for an additional 15 parcels in the town and 6 in the UGA in areas subject to shoreline jurisdiction. The build-out analysis shows that 33% of the potential parcels within the City are within areas designated as Shoreline Residential and 67% High Intensity. Potential parcels in the UGA are limited to areas designated as Shoreline Residential (100% of potential parcels). The shoreline regulations as proposed could allow for the number of parcels in shoreline jurisdiction to total over 118 (in City and UGA) if build-out occurs under the assumptions used for this analysis.

The actual number of parcels created and land uses to be developed will vary depending on a range of factors, including location and market forces. Therefore, this analysis assumed the densest scenario of development in order to model the worst case scenario in terms of impacts. Based on regional growth projections and the current economic stagnation, it is highly unlikely that the projected build-out will be achieved in the foreseeable future. The analysis also did not take into account the use of clustered development, planned development, density bonuses, or development standards that are emerging such as low-impact development and green technology that may alter development impacts for the shoreline. These types of development tools will provide additional shoreline protection through open space plans, covenants and restrictions.

Table 4.2 shows that 48% of the new development will be high intensity commercial in nature and 52% high intensity residential.

**Table 4.2**  
**Build-Out by Future Land Use and Shoreline Designation**

<b>Shoreline Designation</b>	High Intensity Ag/Residential	High Intensity Commercial	Irrigation High Intensity /WWTP Dam/Public/	High Intensity Recreation	High Intensity Residential	Low Intensity Agriculture	Low Intensity Forest	Low Intensity Recreation	Low Intensity Resource	Agriculture Low Intensity Residential/	Low Intensity Residential	Medium Intensity Commercial	Medium Intensity Recreation	Medium Intensity Resource	Medium Intensity Agriculture Residential/	Medium Intensity Residential	<b>TOTALS</b>
Aquatic	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Natural	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Conservancy	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Riverine/Lacustrine	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Shoreline Recreation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Shoreline Residential	0	0	0	0	11	0	0	0	0	0	0	0	0	0	0	0	<b>11</b>
High Intensity	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>10</b>
Urban Conservancy	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Urban Conservancy/High Intensity	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Urban Conservancy/Shoreline Residential	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Urban Conservancy/Shoreline Recreation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Totals</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>21</b>

## Scientific Analysis – Impact on Shoreline Function

The next step in the process required ENTRIX to enter the build-out and future land use data into the computer model constructed for the characterization process (see Chapter 4 – Characterization) and develop formulas to represent the proposed regulations (see Chapter 8 – Regulations).

The science team reviewed and discarded a number of variables to have the model consider but in the end decided to generally use a worst case scenario – every parcel identified as having build-out potential would be developed with each parcel using the maximum lot coverage (developed area). The team also assumed that required setbacks and buffers would be enforced.

The results of the analysis finds that the average AU functional score for the Pateros City Character Zone (see Chapter 4 – Characterization) will remain a **3**, meaning no net loss of shoreline function. Please refer to Appendix A for the data summaries prepared by ENTRIX.

## Summary and Recommendations

The results of the cumulative impacts analysis show that even under a worst case scenario (assuming proposed buffers are enforced), the shorelines of the Columbia and Methow Rivers within the Pateros City Character Zone will maintain their current function with low condition and high asset values. However, it is possible as new development occurs in presently undeveloped areas and existing developed areas are redeveloped under the new regulations, that a combination of restoration and enhancement will result that can improve the condition of the shoreline areas in some places.

It is recommended that the City:

- encourage the replacement of non-native species of vegetation with native species as practical in all shoreline development projects
- require establishment of native shoreline vegetation in areas presently degraded as part of all shoreline development projects

continue working with the Douglas County PUD on efforts to restore and enhance their property in the city while at the same time providing for a variety of low to high intensity recreation opportunities.

## **Chapter 10 Restoration Plan**

### **Introduction**

Degraded areas from the Inventory and Analysis have been identified including those with impaired ecosystem processes and ecological functions. Of the areas identified those, which have a high potential for restoration opportunities, have been mapped.

In addition to the Inventory and Analysis conducted as part of this SMP update, regional efforts to restore ecosystem functions and values in response to water quality impairments, water conservation, invasive species, and the listing of threatened and endangered species have identified a multitude of sites for restoration and are underway throughout the county by a variety of agencies and organizations. This restoration plan is intended to provide the city of Pateros with general goal and policies, a prioritization, and strategies for implementation and coordination of restoration of shorelines.

### **Overall Goals and Priorities**

The governing principals of the shoreline update guidelines require cities and counties containing shorelines with impaired ecological functions to provide goals and policies to guide the restoration of those impaired shorelines. The regional shoreline staff and advisory committee compiled a list of potential restoration sites using data obtained during the inventory phase of the master program update, which identified impaired shoreline areas. Ongoing restoration efforts were included with the inventoried sites to create a comprehensive list of potential restoration opportunities. General and specific goals and policies have been developed and are listed below to address restoration of these various areas.

#### **Goal**

The goal of restoration is to mitigate the negative impacts of past actions, which will likely restore shoreline condition, as needed, to achieve a no net loss standard in shoreline ecological functions of the City's shorelines. Restoration actions will provide for the timely repair and rehabilitation of impaired shorelines through a combination of public and private programs and actions including conservation.

#### **Objectives**

- Restoration projects shall be designed with the intent to achieve no net loss of ecological functions.

- Encourage cooperation between public agencies, private property owners, citizens, local schools and non-profits, volunteer groups for restoration projects.
- Facilitate restoration by expediting and simplifying the shoreline permit process for projects that are conducted solely for restoration purposes, when such projects comply with the statutory authority to grant exemptions.
- Encourage public education of shorelines in conjunction with restoration projects.

## **Policies**

- Development proposals in the shoreline shall be evaluated as to their potential for voluntary ecological restoration and conservation in context to regional priorities on behalf of the property owner. The jurisdiction shall provide guidance and, where appropriate<sup>1</sup>, administrative assistance in voluntary restoration projects.
- Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance shoreline ecological functions and values at local and watershed scales.
- The Administrator should coordinate and facilitate restoration efforts on behalf of development proposals as they relate to local plans and policies such as recreation and economic development plans.
- The jurisdiction shall seek funding from state, federal, private and other sources to implement restoration, enhancement, and acquisition projects and where appropriate serve as agency sponsors for restoration plans that affect shorelines and water quality of shorelines, especially shorelines of statewide significance
- The Administrator shall develop review guidelines that will streamline the review of restoration only projects. Exemption guidelines or criteria need to be developed.
- Educate public and private shoreline owners of the benefit of using native, noninvasive wildlife, fish and plants in shoreline areas.
- Ensure that long-term maintenance and monitoring of mitigation requirements are included in the original permitting of the project.
- Allow for the use of tax incentive programs, mitigation banking, restoration grants, land swaps, or other programs, as they are developed to encourage restoration of shoreline ecological functions and protect habitat for fish, wildlife and plants.
- Jurisdictions shall pursue the development of an incentive based rating system that incorporates public benefit gained from the restoration of the shoreline.
- Jurisdictions shall develop educational materials that promote the stewardship of shoreline functions including information on permitting and regulations.
- Encourage agricultural property owners to work closely with agencies, such as the Natural Resource Conservation Service and Okanogan Conservation District, with expertise in agricultural practices and restoration to improve degraded shoreline functions.

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<sup>1</sup> Jurisdictions shall provide administrative a services for restoration projects as local budgets allow.

- Shoreline administrator shall participate in local, regional or national efforts as needed to coordinate restoration efforts in the jurisdiction.

## Restoration Techniques

Table 1. The following provides a list of techniques that are available for shoreline restoration by focusing on enhancement of natural functions. Given the City’s location on a large dam controlled body of water, restoration opportunities are primarily limited to maintenance and enhancement of existing riparian areas and working to reduce sediment generation in upland areas.

Restoration Goal/Objectives	Function or Value Description	Specific techniques (examples)
Enhance hydrologic and sediment processes	Enhance natural timing, frequency, and duration of peak flows and low flows, and redirect flows to enhance natural processes.  Restores sediment process functions that deliver coarse and fine sediment to the aquatic system.	Road improvement: removal, upgrade stream/culvert crossings, reduce road drainage to stream, use natural systems engineering techniques to protect infrastructure and improve/enhance habitat and ecosystem function, traffic reduction; decommissioning of forest roads  Riparian Enhancement: fencing, re-vegetation, wetland restoration impervious surface reduction
Nutrient enhancement	Primary productivity increases with nutrients and provides multiple benefits to the capacity and diversity of the aquatic food web.	Carcass placement, stream fertilization, LWD and engineered log structures
Riparian habitat enhancement	Over time, riparian buffers will result in improved near shore habitat and properly functioning conditions.	Increased planting densities, storm water management and creative land use can significantly increase the rate of riparian restoration.

## **Prioritization**

### Shorelines of Statewide Significance

Prioritization is based on a number of factors, including the needs of individual species, locations of refugia, and cost-effectiveness, response time of techniques, and the probability of success (Beechie and Bolton 1999). Those techniques that have a high probability of success, low variability among projects, and relatively quick response time should be implemented before other techniques. In general, reconnect high-quality isolated habitats, then riparian enhancements, and lastly road restoration.

Roni et al., 2002 described a methodology for prioritizing site-specific restoration strategies in a watershed. This methodology describes three key knowledge components needed to prescribe appropriate site-specific restoration, principles of watershed processes, protection of existing high-quality habitats, and the current knowledge of the effectiveness of specific natural system engineering techniques such as placement of engineered log jams and instream channel roughness elements. While the state of the science on the use of this approach is recent, examples from the past three years include work within the Elwha, Yakima, Nooksack, Quinault river systems. It is recommended that shoreline enhancement projects should include a monitoring plan.

## **Timelines and funding**

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

## **Incentive Programs**

Adopt development standards that incorporate restoration in accordance with the performance based development standards. This could encourage development to be preferentially located outside of critical habitat areas to protect them. This program also promotes restoration opportunities, recreation opportunities, and public access opportunities.

The City should evaluate the opportunity to develop a preferential tax incentive through the Public Benefit Rating System administered by the County under the Open Space Taxation Act (RCW 84.34), which would encourage private landowners to preserve and restore shoreline areas for “open space” tax relief. The Department of Ecology has a guidance document for local governments to use any portion of the criteria to tailor their public benefit rating system to the watershed issues they are facing.

The City shall evaluate opportunities to reward creative development proposals where voluntary mitigation clearly restores or enhances existing shoreline ecological functions or contributes to adopted public goals and objectives established by this chapter. Incentives may include relaxation of setbacks, lot density bonus or height restriction reductions.

## **Implementation and Monitoring**

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

The following approach is suggested:

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

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

2. Periodically review and provide input to the regional ongoing monitoring programs/agencies, such as:

- Washington Dept of Ecology water quality monitoring
- Methow Watershed Council
- Methow Restoration Council
- Upper Columbia Regional Fisheries Enhancement Group
- Okanogan Basin Watershed Planning Unit
- Okanogan Conservation District
- Washington Department of Fish and Wildlife
- Upper Columbia Salmon Recovery Board
- Confederated Tribes of the Colville
- Yakama Nation

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

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

To conduct a valid reassessment of the shoreline conditions every seven years, it is necessary to monitor, record and maintain key environmental metrics to allow a comparison with baseline conditions. Each jurisdiction needs to establish metrics as part of this plan to measure overall success of SMP. Most of these were measured during the inventory and analysis. Examples:

- Linear feet of harden bank
- Linear feet of shoreline protected by easement or dedication
- Linear feet of shoreline with intact riparian vegetation
- Number of restoration sites
- Number of mitigation sites
- Number of NDPS permits
- Acreage of floodplain accessible
- Number of public access points
- Linear feet of shoreline accessible to public
- Number of structures in Shoreline and uses
- Crossings and culverts
- Stormwater or pollution abatement facilities

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

## **Existing Efforts and Ongoing Programs**

This section lists the programmatic measures within the city of Pateros designed to foster shoreline restoration, achieve a no-net loss in shoreline and upland ecological processes, functions and habitats.

The city of Pateros has developed a list of priority restoration and public access enhancement project that are located throughout the City but primarily on Public Properties. These include the following:

Douglas County PUD lands – The PUD owns nearly all of the waterfront property in Pateros and its Future Service Area. The City will continue working with the PUD to restore and enhance habitat as well as improve opportunities for public access to the shoreline area.

Shoreline Access Inventory – This project is focused on identifying opportunities to improve existing public access areas on public and private property. The primary goal will be to develop a community access inventory to inform the local planning process of community needs and desires and ensure that adequate access is being provided and maintained through the application of this chapter.

Additionally, there are many programs in place that occur in Pateros that are related to Natural Resource Conservation Service or Conservation District programs. The jurisdiction does not anticipate leading most restoration projects or programs. However, the SMP represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by public, private and/or non-profit entities.

## **CHAPTER 11**

### **Administration**

#### **Introduction**

To be authorized, all uses and developments shall be planned and carried out in a manner consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

#### **Sections**

- 11.01 Minimum Application Requirements**
- 11.02 Pre-application Conference**
- 11.03 Plan Review**
- 11.04 Application Vesting and Extensions**
- 11.05 Notice of Application**
- 11.06 Limited Administrative Review**
- 11.07 Full Administrative Review**
- 11.08 Quasi-Judicial Review**
- 11.09 Legislative Review**
- 11.10 Notice of Final Decision**
- 11.11 Shoreline Substantial Development Permits**
- 11.12 Exemptions from Substantial Development Permit Process**
- 11.13 Conditional Use Permits**
- 11.14 Variance Review Criteria**
- 11.15 Appeals**
- 11.16 Reasonable Use Exception**
- 11.17 Non-Conforming Structures**
- 11.18 Non-Conforming Uses**
- 11.19 Non-Conforming Lots**
- 11.20 Violations and Penalties**

## **11.01 Minimum Application Requirements**

**11.01 A.** Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the Administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this Program.

**11.01 B.** A complete application for an exemption, substantial development, conditional use, or variance permit shall contain, at a minimum, the following information; provided that the Administrator may vary or waive these requirements on a case-by-case basis. The Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other city or town requirements.

### **11.01 B. 1. Applicant/Proponent Information**

**11.01 B. 1. a.** The name, address and phone number of the applicant/proponent, applicant's representative, and /or property owner if different from the applicant/proponent.

**11.01 B. 1. b.** The applicant/proponent should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

### **11.01 B. 2. Property Information**

**11.01 B. 2. a.** The property's physical address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

**11.01 B. 2. b.** Identification of the name of the shoreline (waterbody) that the site of the proposal is associated with.

**11.01 B. 2. c.** A general description of the property as now exists including its size, dimensions, land use, vegetation, landforms, other physical and ecological characteristics, existing improvements and existing structures.

**11.01 B. 2. d.** A general description of the vicinity of the proposed project including identification of the surrounding land uses, structures and improvements, intensity of development and physical characteristics.

**11.01 B. 2. e.** A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, water and sewer, existing developments and uses on adjacent properties.

### **11.01 B. 3. Site Plans**

Site plan(s) identifying *existing* conditions and *proposed developments* consisting of photographs, text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all relevant information that may include the following: The Administrator may require more specific detailed information prepared by a qualified professional, if additional information is required to confirm or add detail to the application.

**11.01 B. 3. a. Parcel Boundary and Dimensions.** The boundary of the parcel(s) of land upon which the development is proposed. A survey may be required where substantial questions exist regarding the location of property lines or other important features.

**11.01 B. 3. b. OHWM.** The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. For any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark (e.g. structure setback), the mark shall be located precisely on the ground and the biological and hydrological basis for the location as indicated on the plans shall be noted in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

**11.01 B. 3. c. Topography.** Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area. The use of cross-sectional drawing and 3-Dimensional drawings or imagery may also be used to provide elevation information.

**11.01 B. 3. d. Critical Areas.** Existing critical areas (see maps and sources of information in Appendix C) must be identified together with any supporting information consistent with the reporting requirements found below.

#### **11.01 B. 3. d. 1) Critical Areas Report.**

If the administrator determines that the site of a proposed development potentially includes, or is adjacent to, critical area(s) other than wetlands, a critical areas report shall be required if impacts are anticipated to occur, including intrusions into the buffer and setback areas.. If the critical area is a wetland, a wetland critical areas report is required (See Section 11.01 B. 3. d. 2). When required, the expense of preparing the critical areas report shall be borne by the applicant. The content, format and extent of the critical areas report shall be approved by the administrator.

- i. The requirement for critical areas reports may be waived by the administrator if there is substantial evidence that:



- (j) Financial guarantees to ensure compliance; and
- (k) Any additional information required for specific critical areas as listed in subsequent sections of this chapter.

iv. The administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.

#### **11.01 B. 3. d. 2) Critical Area Report for Wetlands**

- i. If the Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a wetland report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant.
- ii. Minimum Standards for Wetland Reports. The written report and the accompanying plan sheets shall contain the following information, at a minimum:
  - (a) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
  - (b) A statement specifying the accuracy of the report and all assumptions made and relied upon.
  - (c) Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.
  - (d) A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.
  - (e) Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information.
  - (f) For each wetland identified on-site and within 300 feet of the project site provide: the wetland rating per Wetland Ratings (Section 8.01 B. 3. ); required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acres for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated

water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

**(g)** A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative.

**(h)** An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.

**(i)** A description of reasonable efforts made to apply mitigation sequencing pursuant to *Mitigation Sequencing* (Section 11.01 B. 3. h.) to avoid, minimize, and mitigate impacts to wetlands.

**(j)** A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.

**(k)** A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

**(l)** An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

**(m)** Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);

**(n)** A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

**11.01 B. 3. e. Vegetation.** A general representation of the width, location, and character of vegetation found on the site

**11.01 B. 3. f. Structures.** The dimensions and locations of all *existing* and *proposed* structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

**11.01 B. 3. g. Landscaping plans.** Where applicable, a landscaping plan for the project.

**11.01 B. 3. h. Mitigation plans.** Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements as follows.

**11.01 B. 3. h. 1) Mitigation Requirements.** The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical areas report and SEPA documents. Mitigation shall be on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

**i. Mitigation sequencing.** Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. Proposed individual uses and developments shall analyze environmental impacts of the proposal and include measures to mitigate environmental impacts. When critical areas are identified alteration to the critical areas shall be avoided, minimized, or compensated for in the following order of preference:

- (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, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- (f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- (g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

- ii. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.
- iii. Application of the mitigation sequence shall achieve no net loss of ecological functions for each new development and shall not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.
- iv. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.
- v. **Mitigation plan.** When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:
  - (a) A written report identifying mitigation objectives, including:
    - (1) A description of the anticipated impacts to the critical areas and the mitigating actions proposed, including addressing mitigation sequencing, and the purposes of the compensation measures, including the site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of site compensation construction activities;
    - (2) A review of the best available science supporting the proposed mitigation and a description of the report authors experience to date in critical areas mitigation; and
    - (3) An analysis of the likelihood of success of the compensation project.
  - (b) Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met.
  - (c) Written specifications and descriptions of the mitigation proposed, including, but not limited to:
    - (1) The proposed construction sequence, timing, and duration;

- (2) Grading and excavation details;
  - (3) Erosion and sediment control features;
  - (4) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
  - (5) Measures to protect and maintain plants until established.
- (d) A program for monitoring construction of the compensation project, and for assessing the completed project and its effectiveness over time. The program shall include a schedule for site monitoring and methods to be used in evaluating whether performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
- (e) Identify potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

**11.01 B. 3. h. 2) Requirements for Wetland and Critical Area Compensatory Mitigation**

- i. Compensatory mitigation** for alterations to wetlands/riparian areas and their buffers shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)*, Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised.
- ii.** Wetland Mitigation ratios shall be consistent with Table 11.1.
- iii.** Intrusion into wetland buffers and riparian critical area buffers shall be mitigated at a 1:1 area ratio (1sq. foot removed/intruded into = 1 sq. foot compensatory mitigation. Alternative plans to this mitigation ratio may be submitted for review.
- iv. Compensating for Lost or Affected Functions.** Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland/riparian functions as those lost, except when either:
  - (a) The lost wetland provides minimal functions and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

(b) Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

v. **Preference of Mitigation Actions.** Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

- (a) Restoration (re-establishment and rehabilitation) of wetlands.
- (b) Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
- (c) Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
- (d) Preservation. Preservation of high-quality, at risk-wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation.

Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

- (1) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species.
- (2) There is no net loss of habitat functions within the watershed or basin.
- (3) Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.
- (4) The impact area is small (generally <1/2acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

vi. **Type and Location of Compensatory Mitigation.** Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions

shall be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

- (a) There are no reasonable opportunities on-site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
- (b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
- (c) Off-site locations shall be in the same sub-drainage basin unless:
  - (1) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; or
  - (2) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.
- (d) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

**vii. Timing of Compensatory Mitigation.** It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands.

At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

(a) The Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the City.

**Table 11.1 Wetland Mitigation Ratios**

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement	Preservation
Category I: Bog, Natural Heritage site	Not considered possible	6:1	Case-by-case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II:	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

**viii. Compensatory Mitigation Plan.** When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

(a) Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Section 11.01 B. 3 d. 2) of this Chapter.

**(b)** Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

The written report must contain, at a minimum:

**(1)** The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s)

**(2)** of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

**(3)** Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on *Wetland Ratings* (Section 8.01 B. 3. a.) of this SMP.

**(4)** Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?).

**(5)** A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

**(6)** A description of the proposed mitigation construction activities and timing of activities.

**(7)** A discussion of ongoing management practices that will protect wetlands after the project site has been developed,

including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

**(8)** A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

**(9)** Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

**(c)** The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

**(1)** Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

**(2)** Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.

**(3)** Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

**(4)** Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

**(5)** Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Chapter.

**(6)** A plant schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical

clustering patterns, total number of each species by community type, timing of installation.

(7) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.

**ix.** Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

**x.** Wetland Mitigation Banks.

**xi.** Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- (a) The bank is certified under state rules;
- (b) The Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- (c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

**xii.** Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

**xiii.** Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

**xiv.** In-Lieu Fee. To aid in the implementation of off-site mitigation, the City may develop a program which prioritizes wetland areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:

- (a) The identification of sites within the City suitable for use as off-site mitigation. Site suitability shall take into account wetland functions, potential for wetland degradation, and potential for urban growth and service expansion, and
- (b) The use of fees for mitigation on available sites that have been identified as suitable and prioritized.

Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to state and federal rules.

**11.01 B. 3. i. Fill Specifications.** Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

**11.01 B. 3. j. Dredge material.** Quantity, composition and destination of any excavated or dredged material.

**11.01 B. 3. k. Views.** Where applicable, photographs taken from various vantages that depict the current quality of views from surrounding uses and public areas, including photographs taken of the shoreline from the water's edge and across the water body where feasible and appropriate.

**11.01 B. 3. l. Area of Variance.** On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

**11.01 B. 4.** Shoreline permits shall be applied for on forms provided by the jurisdiction.

**11.01 B. 5.** Critical areas reports and mitigation management plan(s) as required pursuant to other applicable sections of this program.

**11.01 B. 6.** Where applicable, accompanying critical area mitigation plans in accordance with Section 11.01 B. 3. d.

**11.01 B. 7.** A list of all property owners and their mailing addresses within 300 ft of the proposed development boundaries.

## 11.02 Pre-application Conference

**11.02 A.** Prior to filing a permit application for a shoreline exemption, substantial development permit, variance or conditional use permit decision, the applicant shall contact the jurisdiction to schedule a pre-application conference which shall be held prior to filing the application, provided that such meetings shall not be required for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single family residence.

**11.02 B.** The purpose of the pre-application conference is to review and discuss the application requirements with the prospective applicant and provide initial comments on the development proposal. The pre-application conference shall be scheduled by the jurisdiction, at the request of an applicant, and shall be held in a timely manner, within thirty (30) days from the date of the applicant's request. Pre-application meetings may take place via telephone or through email contact. If either of the later methods are used, the administrator shall print the correspondences and/or document the meeting in a memo or staff report to be place in the project file

**11.02 C.** Information presented at or required as a result of the pre-application conference shall be valid for a period of one-hundred-eighty (180) days following the pre-application conference. An applicant wishing to submit a permit application more than one-hundred-eighty (180) days following a pre-application for the same permit application may be required to schedule another pre-application conference at the discretion of the administrator. If changes in physical or biological conditions or regulatory environment changes have been implemented, another pre-application meeting should be requested by the administrator.

**11.02 D.** At or subsequent to a pre-application conference, the jurisdiction may issue a preliminary determination that a proposed development is not permissible under applicable policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the appropriate hearing body as provided for in the administrative procedures code for the City.

### **11.03 Plan Review**

**11.03 A.** A plan review shall be conducted to determine if the application is complete. Plan review shall determine if adequate information is provided in or with the application in order to begin processing the application and that all required information and materials have been supplied in sufficient detail to begin the application review process. All information and materials required by the application form must be submitted. All studies supporting the application or information that addresses anticipated impacts of the proposed development must be submitted. A notice of completion of incompleteness shall be prepared and submitted to applicant within 28 days of receipt of materials.

**11.03 B.** The purpose of the plan review is to ensure adequate information is contained in the application materials to demonstrate consistency with this Program, applicable comprehensive plans, development regulations and other applicable regulations. City staff will coordinate the involvement of agencies responsible for the review of the proposed development.

## 11.04 Application Vesting, Extensions, Modifications

**11.04 A.** An application shall become vested on the date a determination of completeness is made and all fees have been paid. Thereafter the application shall be reviewed under the codes, regulations and other laws in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a determination of completeness, as determined by the administrator, the application shall not be considered vested until a new determination of completeness on the changes is made. An application shall only be considered vested for a period of 180 days unless such application has been pursued in good faith or a permit has been issued; except the administrator is authorized to grant one or more extensions for additional time periods not exceeding 180 days each. The extension shall be requested in writing and a justifiable cause demonstrated.

**11.04 B.** 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 or any development authorized pursuant to a variance or conditional use permit authorized by this SMP. 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 on the substantial development permit and to the department.

**11.04 C.** Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit or any development authorized pursuant to a variance or conditional use permit authorized by this SMP. 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 the department.

**11.04 D.** 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 subsections (2) and (3) of this section 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.

**11.04 E.** 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.

**11.04 F.** Local government 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.

## **11.05 Notice of Application**

**11.05 A.** Within fourteen days after issuing a determination of completeness, the administrator shall issue a notice of application. The notice shall include, but not be limited to the following:

**11.05 A. 1.** A description of the proposed project action, a list of permits required for the application, and if applicable, a list of any studies requested;

**11.05 A. 2.** The identification of other required permits not included in the application, to the extent known by the Administrator;

**11.05 A. 3.** The identification of existing environmental documents which evaluate the proposed development and the location where the application and any studies can be reviewed;

**11.05 A. 4.** A statement of the public comment period, which shall be thirty days following the date of the notice of application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made, and a statement of any appeal rights;

**11.05 A. 5.** The date, time, location and type of hearing, if applicable and scheduled at the date of the notice of application;

**11.05 A. 6.** Any other information determined by the administrator to be appropriate.

**11.05 B.** Informing the public

**11.05 B. 1.** The notice of application shall be mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the development is proposed;

**11.05 B. 2.** In addition to mailing the notice of application, the Administrator may require the notice to be posted on the subject property for the duration of the public comment period, where the Administrator finds that such additional notice may be of benefit for the public. The applicant shall be responsible for posting and maintaining the posting throughout the entire public comment period. The applicant shall obtain the notice of application sign(s) from the Administrator upon payment of all applicable fees. The sign location and condition shall be the responsibility of the applicant until the sign(s) are returned to the Administrator. After the public comment period, the applicant shall sign an affidavit of posting before a notary public, using the form adopted by the city or town, and file the affidavit of posting with the Administrator, together with a photograph of the notice of application sign(s) posted at the site. Any necessary replacement of the notice of application sign(s) and post(s) shall be the sole responsibility of the applicant. At the discretion of the Administrator, said postings may be performed by the City.

**11.05 C.** The notice of application is not a substitute for any required notice of a public hearing.

**11.05 D.** A State Environmental Policy Act (SEPA) threshold determination may be issued for a proposal concurrent with the notice of application.

**11.05 E.** Notice of application and SEPA determination will be published in the local official newspaper of record.

## 11.06 Limited Administrative Review

**11.06 A.** Limited administrative review shall be used when the proposed development is subject to clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues and the proposed development is exempt from the State Environmental Policy Act (SEPA). Included within this type of review are single-family building permits accessory dwelling units and other appurtenant development that will not impact critical areas or their buffers. The Administrator may approve, approve with conditions, or deny the application after the date the application is accepted as complete, without public notice. The decision of the Administrator is final. There is no administrative appeal of a limited administrative review decision.

## 11.07 Full Administrative Review

**11.07 A.** Full administrative review shall be used when the proposed development is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest. The proposed development may or may not be subject to SEPA review. Included within this type of review are applications for, shoreline exemptions which require a letter of exemption, administrative shoreline substantial development permits, administrative shoreline conditional use permits, short subdivisions, multifamily, commercial, and industrial and/or office building permits.

**11.07 B.** This review procedure under full administrative review shall be as follows:

**11.07 B. 1.** Upon the completion of the public comment period and the comment period required by SEPA, if applicable, the Administrator may approve, approve with conditions, or deny the application. The Administrator shall mail the notice of decision to the applicant and all parties of record. The decision shall include:

**11.07 B. 1. a.** A statement of the applicable criteria and standards in the development codes and other applicable law;

**11.07 B. 1. b.** A statement of the findings of the review authority, stating the application's compliance or noncompliance with each applicable criterion, and assurance of compliance with applicable standards;

**11.07 B. 1. c.** The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with all applicable laws;

**11.07 B. 1. d.** A statement that the decision is final unless appealed as provided in 11.15 (A) of this Program. The appeal closing date shall be listed. The statement shall describe how a party may appeal the decision.

**11.07 B. 1. e.** A statement that the complete application file including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall list the name and telephone number of the Administrator's representative to contact to arrange inspection.

**11.07 B. 2.** The decision may be appealed to the City Council pursuant to the process established in 11.15(A) of this Program.

## **11.08 Quasi-judicial review of applications**

**11.08 A.** Quasi-judicial review shall be used when the development or use proposed under the application requires a public hearing before a hearing body. This type of review shall be used for shoreline conditional use permits, shoreline variances, shoreline substantial development permits<sup>1</sup> and other similar applications.

**11.08 B.** The review procedure under quasi-judicial review shall be as follows:

**11.08 B. 1.** A quasi-judicial review process requires an open record public hearing before the Planning Commission.

**11.08 B. 2.** The public hearing shall be held after the completion of the public comment period and the comment period required by SEPA, if applicable.

**11.08 B. 3.** At least seven days before the date of a public hearing the Administrator shall issue public notice of the date, time, location and purpose of the hearing.

**11.08 B. 4.** At least ten days before the date of the public hearing, the Administrator shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative. The Administrator shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.

**11.08 B. 5.** Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing body. A public hearing shall be recorded. If for any reason, the hearing cannot be completed on the date set in the public notice, it may be continued during the public hearing to a specified date, time and location, without further public notice required.

**11.08 B. 6.** Within ten working days after the hearing body adopts their final decision, the hearing body shall issue a written decision regarding the application(s).

**11.08 B. 7.** The hearing body may approve, approve with conditions or deny the application and shall mail/deliver the notice of its decision to the Administrator, Ecology, applicant, the applicant's designated representative, the property owner(s), and any other parties of record. The decision shall include:

**11.08 B. 7. a.** A statement of the applicable criteria, standards and law;

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<sup>1</sup> - hearing is only required when Administrator determines that the public interest would be served, e.g. large projects affecting shorelines of state-wide significance.

**11.08 B. 7. b.** A statement of the findings of fact the hearing body made showing the proposal does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards;

**11.08 B. 7. c.** A statement that the decision is final unless appealed pursuant to section 11.16 (A) of this Program. The appeal closing date shall be listed;

## **11.09 Legislative review of applications**

**11.09 A.** Legislative review shall be used to review and amend this master program.

**11.09 B.** Legislative review shall be conducted as follows:

**11.09 B. 1.** Legislative review requires at least one public hearing before the planning commission and one public meeting before the Legislative authority of the jurisdiction.

**11.09 B. 2.** The application shall contain all information and material requirements required by the appropriate application form.

**11.09 B. 3.** At least seven days before the date of the first planning commission hearing the Administrator shall issue public notice of the date, time, location and purpose of the hearing. The notice shall include notice of the SEPA threshold determination issued by the Administrator.

**11.09 B. 4.** At least ten days prior to the hearing the Administrator shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative, and planning commission members. The Administrator shall make available a copy of the staff report, subject to a reasonable charge, to other persons who request it.

**11.09 B. 5.** Following the public hearing and in accordance with RCW 36.70.630, the recommendation of the planning commission shall be forwarded to the City Council. Upon receiving the recommendation from the planning commission, the Council shall set a public meeting to consider the proposal, at which the Council may either accept or reject the recommendation.

**11.09 B. 6.** The City Council must hold a public hearing to consider any changes to the recommendation of the planning commission. The City Council may approve, approve with conditions, deny or remand the proposal back to the planning commission for further review after such public hearing. The final decision of the legislative authority shall be adopted by resolution.

**11.09 B. 7.** The final decision of the City Council shall be in writing and include:

**11.09 B. 7. a.** A statement of the applicable criteria and law;

**11.09 B. 7. b.** A statement of the findings indicating the application's or proposed development's compliance or noncompliance with each applicable approval criterion;

**11.09 B. 7. c.** The decision to approve, condition or reject the planning commission recommendation or remand for further review;

**11.09 B. 7. d.** A statement that the decision is final unless appealed pursuant to the process in Section 11.15 of this Chapter. The appeal closing date shall be listed.

**11.09 B. 7. e.** A statement that the complete application file, including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall state the name and telephone number of the city representative to contact.

## **11.10 Notice of final decision**

**11.10 A.** A notice of final decision on an application shall be issued within one hundred twenty days after the date of the declaration of completeness, unless additional time is required due to environmental review, agency consultations or is needed to complete required studies or reports. In determining the number of days that have elapsed, the following periods shall be excluded:

**11.10 A. 1.** Any period during which the applicant has been requested by the Administrator to correct plans, perform required studies, or provide additional information or materials. The period shall be calculated from the date the Administrator issues the request to the applicant to, the earlier of, the date the Administrator determines whether the additional information satisfies its request or fourteen days after the date the information has been received by the City;

**11.10 A. 2.** If the Administrator determines the information submitted by the applicant under 11.01 of this Section is insufficient, it shall again notify the applicant of deficiencies, and the procedures of this Section shall apply to the request for information;

**11.10 A. 3.** Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance pursuant to RCW 43.21C;

**11.10 A. 4.** Any period for administrative appeals.

**11.10 A. 5.** Any extension of time mutually agreed upon by the applicant and the Administrator.

**11.10 B.** The time limit by which the jurisdiction must issue a notice of final decision does not apply if an application:

**11.10 B. 1.** Requires an amendment to a comprehensive plan or development regulation;

**11.10 B. 2.** Is substantially revised by the applicant after a determination of completeness has been issued, in which case the time period shall start from the date on which the revised project application is determined to be complete.

**11.10 C.** If the Administrator is unable to issue its final decision within the time limits provided for in this Chapter, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

**11.10 D.** In accordance with state law, the local jurisdiction is not liable for damages which may result from the failure to issue a timely notice of final decision.

**11.10 E.** The local jurisdiction shall file the final decision with the Department of Ecology in accordance with WAC 173-27-130, as amended.

## **11.11 Shoreline Substantial Development Permits**

**11.11 A.** A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 11.12 (B).

**11.11 B.** In order to be approved, the decision maker must find that the proposal is consistent with the following criteria:

**11.11 B. 1.** All regulations of this Program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under Section 11.14.

**11.11 B. 2.** All policies of this Program appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.

**11.11 B. 3.** For projects located on shorelines of statewide significance, the policies of Chapter 5 shall be also be adhered to.

**11.11 C.** The responsible local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP.

## **11.12 Exemptions from Shoreline Substantial Development Permit Process**

### **11.12 A. Application and Interpretation**

**11.12 A. 1.** An exemption from the substantial development permit process is not an exemption from compliance with the Act or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and regulatory provisions of this Program and the Act. A statement of exemption shall be obtained for exempt activities consistent with the provisions of this section.

**11.12 A. 2.** Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

**11.12 A. 3.** The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.

**11.12 A. 4.** If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.

**11.12 A. 5.** A development or use that is listed as a conditional use pursuant to this Program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

**11.12 A. 6.** When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

**11.12 A. 7.** All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Administrator, including compliance with bulk and dimensional standards and policies and regulations of this Program. The Administrator may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program.

#### **11.12 B. Exemptions Listed**

**11.12 B. 1.** Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~seven five~~-thousand ~~seven hundred eighteenforty-seven~~ dollars (~~\$7,0475,718~~) or as amended by the state office of financial management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the 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.

**11.12 B. 2.** 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 the environment.

**11.12 B. 3.** Construction of the normal protective bulkhead common to single family residences. A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the

sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used for backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

**11.12 B. 4.** Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58, WAC 173-27 or this Program, shall be obtained. All emergency construction shall be consistent with the policies of RCW 90.58 and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

**11.12 B. 5.** Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels and pipes. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

**11.12 B. 6.** Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

**11.12 B. 7.** Construction on shorelands 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 35 feet above average grade level and that meets all requirements of the State agency or local government having jurisdiction thereof. Single family residence means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance as defined in Chapter 2 of this program.

**11.12 B. 8.** Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if in fresh waters the fair market value of the dock does not exceed:

**11.12B. 8. a.** twenty-two thousand five hundred dollars (\$22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

**11. 12 B. 8. b.** eleven ~~ten~~ thousand two hundred dollars (\$110,200).

However, ~~but~~ if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this Shoreline Master Program.

~~11.12 B. 8.~~**11.12 B. 9.** Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

~~11.12 B. 9.~~**11.12 B. 10.** The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

~~11.12 B. 10.~~**11.12 B. 11.** Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

~~11.12 B. 11.~~**11.12 B. 12.** Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;

~~11.12 B. 12.~~**11.12 B. 13.** Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

**11.12 B. 13. a.** The activity does not interfere with the normal public use of the surface waters;

**11.12 B. 13. b.** The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

**11.12 B. 13. c.** The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

**11.12 B. 13. d.** A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the responsible local government to ensure that the site is restored to preexisting conditions; and

**11.12 B. 13. e.** The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;

~~11.12 B. 13.~~**11.12 B. 14.** 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 the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

~~11.12 B. 14.~~**11.12 B. 15.** Watershed restoration projects as defined below. The responsible local government shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five 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 exemptions for watershed restoration projects as used in this section.

**11.12 B. 15. a.** "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

**11.12 B. 15. a. 1)** A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

**11.12 B. 15. a. 2)** A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

**11.12 B. 15. a. 3)** A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**11.12 B. 15. b.** “Watershed restoration plan” means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, or Transportation; a federally recognized Indian tribe acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act

~~11.12 B. 15.~~**11.12 B. 16.** A public or private project that is designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147, when all of the following apply:

**11.12 B. 16. a.** The project has been approved in writing by the State of Washington department of Fish and wildlife;

**11.12 B. 16. b.** The project has received hydraulic project approval by the State of Washington Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and

**11.12 B. 16. c.** The city of Pateros has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs.

11.12 B. 17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with disabilities act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

### 11.12 C. Letters of Exemption

**11.12 C. 1.** Letters of exemption shall be issued whenever a development is determined to be exempt from the substantial development permit requirements pursuant to WAC 173-27-040 and the development is subject to one or more of the following federal permit requirements:

**11.12 C. 1. a.** A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.) or

**11.12 C. 1. b.** A section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)

**11.12 C. 1. c.** The letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the analysis of the consistency of the project with the master program and the act.

**11.12 C. 1. d.** Exemptions may be conditioned to ensure compliance with the requirements of the SMP

## 11.13 Conditional Use Permits

**11.13 A.** Uses which are specifically prohibited by this Shoreline Master Program may not be authorized pursuant to either sections 11.13 B or C.

**11.13 B.** Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the responsible local government.

**11.13 C.** 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 this SMP.

**11.13 D.** Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

### 11.13 E. Conditional Use Permit Review Criteria

**11.13. D. 1.** The purpose of a conditional use permit is to provide a system within the master program 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 of Pateros or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

**11.13. D. 2.** Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

**11.13 D. 2. a.** That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

**11.13 D. 2. b.** That the proposed use will not interfere with the normal public use of public shorelines;

**11.13 D. 2. 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 shoreline master program;

**11.13 D. 2. d.** That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

**11.13 D. 2. e.** That the public interest suffers no substantial detrimental effect.

**11.13 F.** 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.

## 11.14 Variance Review Criteria

**11.14 A.** The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program and any associated standards appended to this Program such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property and/or surrounding properties such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW 90.58.020. Use restrictions may not be varied.

**11.14 B.** Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

**11.14 C.** Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

**11.14. C. 1.** That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

**11.14. C. 2.** That the hardship described in (11.14 C. 1.) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

**11.14. C. 3.** That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

**11.14. C. 4.** That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

**11.14. C. 5.** That the variance requested is the minimum necessary to afford relief; and

**11.14. C. 6.** That the public interest will suffer no substantial detrimental effect.

**11.12 D.** Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

**11.14. D. 1.** That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

**11.14. D. 2.** That the proposal is consistent with the criteria established under Section 11.14 C 1 through 6; and

**11.14. D. 3.** That the public rights of navigation and use of the shorelines will not be adversely affected.

**11.14 E.** In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

**11.14 F.** Variances from the use regulations of the master program are prohibited.

**11.14 G.** In authorizing a variance, special conditions may be attached to the permit by the City of Pateros or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

**11.14 H.** On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

## **11.15 Appeals**

### **11.15 A. Appeals of Shoreline Administrative Decisions**

**11.15. A. 1.** Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the City Council by any aggrieved person. Such appeals shall be an open record hearing before the Council. Appeals must be submitted within twenty one (21) days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

**11.15 A. 1. a.** The decision being appealed;

**11.15 A. 1. b.** The name and address of the appellant and his/her interest(s) in the application or proposed development;

**11.15 A. 1. c.** The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous;

**11.15 A. 1. d.** The specific relief sought by the appellant; and

**11.15 A. 1. e.** The appeal fee established by the responsible local government.

### **11.15 B. Appeals to the Shorelines Hearing Board**

**11.15. B. 1.** Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of filing the final decision by the responsible local government with Ecology.

## **11.16 Reasonable Use Exception**

**11.16 A.** If the application of this Master Program would result in denial of all reasonable and economically viable use of a property, then a landowner may seek a relief through the shoreline conditional use as regulated in Section 11.13 or variance process as regulated in Section 11.14. Requests for such relief shall only be granted if the applicant can comply with Section 11.13 or Section 11.14 under the following conditions:

**11.16. A. 1.** The application of this chapter would deny all reasonable and economically viable or beneficial uses of the property so that there is no reasonable and economically viable or beneficial use with a lesser impact on the shoreline area than that proposed; and

**11.16. A. 2.** The proposed development does not pose a threat to the public health, safety and welfare on or off the site for which the relief is sought; and

**11.16. A. 3.** Any proposed modification to a shoreline area will be the minimum necessary to allow reasonable, economically viable and beneficial use of the property;

**11.16. A. 4.** The decision body may issue, as part of the findings in any decision made under this subsection, conditions of approval, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers. As part of the findings, the decision maker may also specify mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible.

## **11.17 Non-Conforming Structures**

**11.17 A.** Structures that were legally established and are used for a use conforming at the time of establishment, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density established in this SMP 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.

**11.17 B.** 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.

**11.17 C.** A nonconforming structure which is moved any distance provided it does not increase the nonconforming aspects of the structure by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

**11.17 D.** If a nonconforming development is damaged, it may be reconstructed provided the resulting configuration does not increase the nonconformity as it existed immediately prior to the time the development was damaged. An application shall be made for permits necessary to restore the development within one year of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance unless otherwise extended.

**11.17 E.** Nothing in this section shall be deemed to prevent the normal maintenance and repair of a nonconforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

## **11.18 Non-Conforming Uses**

**11.18 A.** Uses and developments 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, except that nonconforming single-family residences and water related commercial uses that are located landward of the OHWM may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in Chapter 8 upon approval of a Conditional Use Permit.

**11.18 B.** A use which is listed as a conditional use, but which existed prior to adoption of the SMP or any relevant amendment and for which a Conditional Use Permit has not been obtained, shall be considered a legal nonconforming use.

**11.18 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:

**11.18 C. 1.** The proposed use will be at least as consistent with the policies and provisions of the Act and the SMP and as compatible with the uses in the area as the preexisting use. 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 SMP and the Act, and to assure that the use will not become a nuisance or a hazard.

**11.18 D.** If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to 11.16 of this Section shall be considered a conforming use for purposes of this section.

## **11.19 Non-Conforming Lots**

**11.19 A.** An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of this SMP, but which does not conform to the present lot size standards, may be developed, if permitted by other land use regulations of the responsible local government and so long as such development conforms to all other requirements of this SMP and the Act.

## **11.20 Violations and Penalties**

**11.20 A.** Prosecution: Every person violating any of the provisions of this Master Program or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.

**11.20 B.** Injunction: The City Attorney may bring such injunctive, declaratory or other actions as are necessary to insure that no uses are made of the shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Master Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

**11.20 C.** Violators Liable for Damages: Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney may bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

### **11.20 D. Unauthorized Wetlands Alterations and Enforcement**

**11.20 D. 1.** When a wetland or its buffer has been altered in violation of this SMP, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a "stop-work" order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

**11.20 D. 2.** Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by City. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles

and shall describe how the actions proposed meet the minimum requirements described in Section 11.20 D. 3. The Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

**11.20 D. 3. Minimum Performance Standards for Restoration.** The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

**11.20 D. 3. a.** The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.

**11.20 D. 3. b.** The historic soil types and configuration shall be restored to the extent practicable.

**11.20 D. 3. c.** The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.

**11.20 D. 3. d.** Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to the Administrator.

**11.20 D. 4. Site Investigations.** The Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

**11.20 D. 5. Penalties.** Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

**11.20 D. 5. a.** Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The [city/town] may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Chapter. The civil penalty shall be assessed at a maximum rate of \$100 per day per violation.

**11.20 D. 5. b.** If the wetland affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected wetland is located. The City may coordinate its preservation or restoration activities with other cities in the watershed to optimize the effectiveness of the restoration action.

### **11.20 E. Authority and purpose.**

This part is adopted under RCW 90.58.200 and 90.58.210 to implement the enforcement

responsibilities of the department and the city under the Shoreline Management Act. The act calls for a cooperative program between the city and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms already in place at the local level and does not preclude other means of enforcement.

**11.20. E. 1. Definitions.**

**11.20 E. 1. a.** \_\_\_\_ The definitions contained in WAC 173-27-030 shall apply in this part also except that the following shall apply when used in this part of the regulations:

**11.20 E. 1. a. 1)** "Permit" means any form of permission required under this SMP and the act prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions; and

**11.20 E. 1. a. 2)** "Exemption" means authorization from the city which establishes that an activity is exempt from substantial development permit requirements under WAC 173-27-040, but subject to regulations of the act and the local master program.

**11.20 E. 2. Policy.** These regulations should be used by the city in carrying out enforcement responsibilities under the act. Enforcement action by the department or the city may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

**11.20 E. 3. Order to cease and desist.** The City and/or the department shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the local master program.

**11.20 E. 3. a. Content of order.** The order shall set forth and contain:

**11.20 E. 3. a. 1)** A description of the specific nature, extent, and time of violation and the damage or potential damage; and

**11.20 E. 3. a. 2)** A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.

**11.20 E. 3. b. Effective date.** The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

**11.20 E. 3. c. Compliance.** Failure to comply with the terms of a cease and desist

order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

**11.20 E. 4. Civil penalty.**

**11.20 E. 4. a.** A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by local government. The department may impose a penalty jointly with city, or alone only upon an additional finding that a person:

- 11.20 E. 4. a. 1)** Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or
- 11.20 E. 4. a. 2)** Has been given previous notice of the same or similar type of violation of the same statute or rule; or
- 11.20 E. 4. a. 3)** The violation has a probability of placing a person in danger of death or bodily harm; or
- 11.20 E. 4. a. 4)** Has a probability of causing more than minor environmental harm; or
- 11.20 E. 4. a. 5)** Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

**11.20 E. 4. b.** In the alternative, a penalty may be issued to a person by the department alone, or jointly with the city for violations which do not meet the criteria of subsection (a)(1) through (5) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

- 11.20 E. 4. b. 1)** A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
- 11.20 E. 4. b. 2)** A statement of what is required to achieve compliance;
- 11.20 E. 4. b. 3)** The date by which the agency requires compliance to be achieved;
- 11.20 E. 4. b. 4)** Notice of the means to contact any technical assistance services provided by the agency or others; and
- 11.20 E. 4. b. 5)** Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

Furthermore, no penalty shall be issued by the department until the individual or business has been given a reasonable time to correct the violation and has not done so.

**11.20 E. 4. c. Amount of penalty.** The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

**11.20 E. 4. d. Aiding or abetting.** Any person who, through an act of commission or omission procures aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

**11.20 E. 4. e. Notice of penalty.** A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department and/or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

**11.20 E. 5. Appeal of civil penalty.**

**11.20 E. 5. a. Right of appeal.** Persons incurring a penalty imposed by the department or imposed jointly by the department and the city may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons incurring a penalty imposed by local government may appeal the same to the local government legislative authority.

**11.20 E. 5. b. Timing of appeal.** Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

**11.20 E. 5. c. Penalties due.**

**11.20 E. 5. c. 1)** Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the city and/or the department's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

**11.20 E. 5. c. 2)** If the amount of a penalty owed the department is not paid within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. If the amount of a penalty owed to the city is not paid within thirty days after it becomes due and payable, the city may take actions necessary to recover such penalty.

**11.20 E. 5. d. Penalty recovered.** Penalties recovered by the department shall be paid to the state treasurer. Penalties recovered by the city shall be paid to the local government treasury. Penalties recovered jointly by the department and the city shall be divided equally between the department and the city unless otherwise stipulated in the order.

**11.20 E. 6. Criminal penalty.**

The procedures for criminal penalties shall be governed by RCW 90.58.220