# Title 26

# SHORELINE MANAGEMENT

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# Chapter 26.01
# GENERAL PROVISIONS

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**26.01.010 Short title.**

This title shall be known and may be cited as the “Richland shoreline master program” and is sometimes hereinafter referred to as the “shoreline master program.”

**26.01.020 Purpose.**

The purpose of the shoreline master program is to implement the Shoreline Management Act of 1971 as now or hereafter amended (Chapter 90.58 RCW); and to provide for wise and proper management of ~~shorelands, wetlands, and water bodies~~ shorelines of the state in a manner that will allow present and future generations of users the opportunity to enjoy water resources~~,~~ consistent with the goals, policies and stated purposes of the shoreline program while~~, at the same time,~~ recognizing and protecting private property rights consistent with the public interest. This title carries out the responsibilities imposed on the city of Richland by the Shoreline Management Act of 1971 as now or hereafter amended by adopting the policies enunciated in RCW 90.58.010, the Richland shoreline master program, and in implementation thereof, the regulations and administrative provisions contained herein.~~.~~

**26.01.030 Shoreline Master program adopted.**

The Richland shoreline master program consists of the following ~~elements~~ components which are subject to review and approval by the Washington State Department of Ecology pursuant to RCW 90.58.090:

A. Comprehensive plan policies in the shoreline section of the land use element of the Comprehensive Plan.

B. Regulations in this title, Shoreline Management.

C. ~~Sensitive area~~ Critical Areas regulations ~~in Chapter 22.10 RMC as amended and incorporated into this program as part of this title, specifically~~ which apply within Shoreline Jurisdiction, located at Chapter 26.60 RMC.

D. The Shoreline Restoration and Protection Plan~~shoreline restoration element of the shoreline master plan~~, of which one printed copy in book form is on file in the office of the city clerk and made available for examination by the general public, shall not be considered to contain regulations but shall be utilized as a guideline for capital improvements planning by the city and other jurisdictions undertaking ecological restoration activities within Shoreline Management Act jurisdiction.

E. Maps, including the shoreline environment designation and regulatory reaches map and the map folio in the ~~SMP inventory, analysis and characterization report~~Shoreline Inventory, Analysis, and Characterization Report, of which one original copy is on file in the office of the city clerk and made available for examination by the general public, and another original copy of which is available at the community development department. Electronic copies may also be posted online at the city's website.

**26.01.040 Shoreline master program review.**
The planning commission shall ~~conduct an annual~~ review proposed changes to ~~of~~ the ~~master~~ shoreline master program and shall recommend to city council any changes or modifications deemed appropriate. After a public hearing, the city council shall adopt, adopt with modifications, or deny~~, or adopt with modifications~~ the recommendations of the planning commission. ~~The~~ Following local adoption, the shoreline master program is then sent to the Department of Ecology for final review and approval.

The City shall conduct a review of the shoreline master program at regular intervals as required by RCW 90.58.080(4)(b). Following the review, the City shall, if necessary, revise the master program. The purpose of the review is:

A. To assure that the SMP complies with applicable laws and guidelines in effect at the time of the review; and

B. To assure consistency of the SMP with the comprehensive plan and development regulations adopted under RCW 36.70A, if applicable, and other local requirements.

**26.01.050 Annexations.**
It is anticipated that future annexations to the city of Richland may include water bodies, shorelines, and wetlands which are subject to the Shoreline Management Act of 1971, as amended. Areas outside of the city limits but within the city's urban growth area are assigned pre-designated shoreline environmental designations in accordance with WAC 173-26-150. Policies and regulations of this program shall take effect concurrent with annexation. No additional procedures are required by the city or the Department of Ecology for these provisions to have full force and effect.

**26.01.060 Amendments.**
It is recognized that future amendments to the ~~master~~ shoreline master program may be necessary in the interest of the health, safety, and general welfare of the ~~citizens~~ residents of Richland and the state of Washington. In addition to the requirements in WAC 173-26-100, the following procedure shall be observed in amending the ~~master~~ shoreline master program:

A. Proposed amendments to the regulations and boundaries set forth in this program shall follow the procedures outlined in RMC 23.70.180 through 23.70.250 and shall be submitted on forms provided by the administrator.

B. There shall be established a mailing list of interested agencies, associations and organizations to be notified of any proposed amendments to the ~~master~~ shoreline master program. It shall be the responsibility of the agency, association, or organization

to indicate in writing their interest in being included on the mailing list and their official mailing address.

C. Fees as set forth in the schedule of fees referenced in Chapter 19.80 RMC shall accompany applications for an amendment to the ~~master~~ shoreline master program.

D. No amendment to the ~~master~~ shoreline master program shall take effect without Department of Ecology review and approval.

# Chapter 26.10
# SHORELINE JURISDICTION AND SHORELINE ENVIRONMENT DESIGNATIONS

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**26.10.000 Shoreline jurisdictions and environment designations established.**

A. The City of Richland's shoreline jurisdiction includes segments of streams or rivers within the city limits where the mean annual flow is more than twenty (20) cubic feet per second and shorelands adjacent to those water bodies. Shorelands means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200

feet from such floodways; and all wetlands and river deltas associated with the streams or rivers.

B. Shoreline areas are classified into specific shoreline environment designations based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through the city of Richland comprehensive plan. ~~Lands~~ Areas landward of the ordinary high water mark not designated are assigned a recreation conservancy environment designation.

**26.10.005 Environment designation – Official map.**
The shoreline environment designation and regulatory reaches map, and all amendments thereto adopted as a part of the ~~master~~ shoreline master program in RMC 26.01.030, shall be filed in the office of the administrator and may be viewed in the development services division. When uncertainty exists as to the exact location of an environment boundary line, the rules of construction in RMC 23.08.050 shall apply.

**26.10.010 Natural environment.**

**26.10.011 Natural environment - Purpose.**
The designation of natural environment on Richland's shorelines is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, the city will control the type and range of uses allowed and plan for restoration of degraded shorelines within this environment.

**26.10.012 Natural environment - Designation criteria.**
The natural environment designation in Richland is assigned to shoreline areas that are relatively ecologically intact due to a low level of human disturbance, or areas which have been disturbed in the past but either have been isolated from human activity in the near past or are subject to a restoration program designed to restore natural ecological processes and functions. These areas are relatively free of structural shoreline modifications, structures, and intensive human uses.

**26.10.013 Natural environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. A use with associated levels of human activity that would degrade the ecological functions or natural character of the shoreline area shall not be allowed.

B. The following new uses are not allowed in the natural environment:

1. Commercial uses;

2. Industrial uses;

3. Residential uses;

4. Non-water-oriented recreation other than public access, or water-oriented recreation uses resulting in more than minor modification of shoreline vegetation and topography or in-stream structure; and

5. Roads, parking areas and utility corridors and utility facilities that can be feasibly located outside of “natural” designated shorelines.

C. Scientific, historical, cultural, educational, research uses, and very low intensity water-oriented recreational access uses may be allowed; provided, that no significant ecological impact on the area will result.

D. Any activity or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions is not allowed.

**26.10.020 Recreation conservancy environment.**

**26.10.021 Recreation conservancy environment - Purpose.**
The recreation conservancy environment on Richland’s shorelines seeks to satisfy some of the needs of the community for low intensity recreation uses with minimal modification of the shoreline character. The intensity of recreational uses should be designed or mitigated to avoid alteration of existing vegetation as much as feasible and introduce low levels of human use.

**26.10.022 Recreation conservancy environment - Designation criteria.**
A recreation conservancy environment designation is assigned to public lands on the shoreline which have been modified by past human uses or activities but retain a range of ecological functions such that low intensity uses are most appropriate.

**26.10.023 Recreation conservancy environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. Management plans for these lands shall strike an appropriate balance between enjoyment of these areas and limiting potential adverse effects to aquatic areas, the land, associated vegetation, and wildlife. Some areas have the character of natural open space and shall receive a higher level of protection.

B. A use with associated levels of human activity that would degrade the ecological functions or natural character of the shoreline area should not be allowed.

C. The following new uses are not allowed in the recreation conservancy environment:

1. Commercial uses, except for low intensity activities which enhance public enjoyment of the land;

2. Industrial uses;

3. Residential uses;

4. Recreation uses requiring more than minor modification of shoreline vegetation and topography;

5. In-stream structures of a magnitude that would alter natural geohydraulic processes or be a substantial visual intrusion to users of the area; and

6. Roads, parking areas and utility corridors and facilities that can be feasibly located outside of shorelines.

D. Scientific, historical, cultural, educational, research, and low intensity recreational access uses, including paved trails for regional trail systems or ADA access may be allowed; provided, that no significant ecological impact on the area will result. For the most part, soft surface trails should be employed.

E. All activities or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions is not allowed.

F. Utility facilities should be located and designed to minimize impact on scenic views or aesthetic qualities and minimize environmental impact.

**26.10.030 Recreation environment.**

**26.10.031 Recreation environment - Purpose.**
The recreation environment on Richland's shorelines is ~~designed~~ established to satisfy the needs of the community for higher intensity recreation uses including both water-oriented and non-water-oriented uses. This environment includes existing and planned parks where native vegetation has been replaced by introduced species for aesthetic enjoyment as well as for active areas such as informal lawn areas, picnic areas and sports fields. The local community makes extensive use of developed parks along the shoreline for a variety of recreation uses and strongly supports these areas. Water-oriented uses are preferred, but non-water-oriented uses are allowed as long as the location and configuration does not substantially interfere with enjoyment of the shoreline.

**26.10.032 Recreation environment - Designation criteria.**
A recreation environment designation is assigned to public and private lands on the shoreline which have been modified by past human uses or activities and are devoted primarily to the public enjoyment of the shoreline and a variety of recreational activities.

**26.10.033 Recreation environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. A use with associated levels of human activity that would substantially degrade existing ecological functions of the shoreline area should not be allowed.

B. The intensity of uses within the shoreline should generally follow a gradation with lower intensity uses nearer the shoreline and higher intensity uses at a greater distance, except for uses such as boat launches that require a shoreline location.

C. The following new uses are not allowed in the recreation environment:

1. Industrial uses;

2. Commercial uses, except for franchises granted by the city which enhance public enjoyment of the shoreline and the overall recreational setting; and

3. In-stream structures of a magnitude that would alter natural geohydraulic processes or be a substantial visual intrusion to users of the area.

D. A wide variety of recreation uses are appropriate with a preference for water-oriented uses and activities including beaches, in-water structures, boat launches and other facilities that enhance the public enjoyment of the shoreline, including active and passive uses such as boating, fishing, bird watching, and similar uses.

E. Non-water-oriented recreation uses such as lawn areas and picnic areas that are enhanced by the ability to enjoy the aesthetic qualities of the shoreline are the next priority.

F. Active recreation uses such as sports fields may be located within shoreline jurisdiction, provided they do not displace opportunities for water-oriented uses. In general, such uses shall be located more than 100 feet from the OHWM, unless specific site conditions justify a closer location.

G. Structures that serve recreation and community uses, including gymnasia and community centers, should be located outside shoreline jurisdiction unless specific site conditions justify a closer location.

H. Roads and parking areas should be located as far from the water as feasible, preferably outside of shoreline jurisdiction.

I. Utility facilities should be located and designed to minimize impact on scenic views or aesthetic qualities and minimize environmental impact.

**26.10.040 Rural environment.**

**26.10.041 Rural environment - Purpose.**

The designation of rural environments on Richland's shorelines seeks to protect agricultural land and other historically rural areas from pressures of urban expansion, provide buffer areas between urban areas, protect ecological functions of the shoreline, and maintain open spaces and opportunities for recreational and other uses compatible with agricultural activities.

**26.10.042 Rural environment - Designation criteria.**
The rural environment designation is applied to shoreline areas inside urban growth areas that are designated by the comprehensive plan as agricultural or zoned agriculture, suburban agriculture, or floodplain.

**26.10.043 Rural environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. Uses in the rural environment are limited to those which sustain the shoreline area's physical and biological resources, and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

B. Commercial and industrial uses are not allowed, except as directly related to agricultural use or products, including sale of products grown on the premises.

C. Water-dependent and water-enjoyment recreation facilities are a preferred use, provided they do not deplete the resource over time. Boating facilities, angling, wildlife viewing trails, and swimming beaches are preferred uses.

D. Residential subdivisions, including short plats, shall maintain an overall maximum density of one dwelling unit for every five acres.

**26.10.050 Residential environment.**

**26.10.051 Residential environment - Purpose.**
The residential environment on Richland's shorelines is designed to accommodate residential development and appurtenant structures at a variety of housing types and population densities consistent with the city's comprehensive plan and zoning. Protection is provided against hazards, objectionable influences, traffic, building congestion, and lack of light, air, and privacy. Certain compatible public service installations are permitted in residential use districts. An additional purpose is to provide appropriate public access and recreational uses, particularly associated with multifamily residential development~~use~~.

**26.10.052 Residential environment - Designation criteria.**
The residential environment designation is applied to shoreline areas inside urban growth areas that are designated by the comprehensive plan as predominantly single-family or multifamily residential development or are planned for residential development.

**26.10.053 Residential environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, ~~sensitive~~ critical area protection, and water quality are provided in this program and in zoning regulations to

assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

B. Residential areas isolated from the shoreline by levees or by intervening land in public ownership will have limited impact on shoreline resources and are not subject to standards such as buffers if the use of the intervening land interrupts natural ecological functions.

**26.10.060 Waterfront ~~use~~ environment.**

**26.10.061 Waterfront environment - Purpose.**
The waterfront ~~use~~ environment is a special commercial and residential classification providing for the establishment of such uses as marinas, boat docking facilities, resort motel and hotel facilities, offices, and other similar commercial, apartment, and multifamily uses which are consistent with waterfront-oriented development. This environment encourages mixed special commercial and high-density residential uses to accommodate a variety of lifestyles and housing opportunities, and enhances and maintains existing ecological functions of the shoreline and provides for maximum public access and circulation.

**26.10.062 Waterfront environment - Designation criteria.**
The waterfront ~~use~~ environment designation is applied to shoreline areas ~~inside urban growth areas~~ that are designated by the comprehensive plan for waterfront use.

**26.10.063 Waterfront environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. Water-oriented uses shall be given highest priority for waterfront sites.

B. Mixed use, resort motel and hotel facilities, special commercial and similar uses are encouraged to maximize public access and provide for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use, and, through location, design, and operation, ensure the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

C. Physical public access should be provided by the shoreline trail system.

D. Visual access should be provided by the shoreline trail system and by open space that provides congregating areas for people to enjoy the aesthetic qualities of the shoreline, including seating areas and compatible commercial uses.

**26.10.070 Industrial conservancy environment.**

**26.10.071 Industrial conservancy environment - Purpose.**
The industrial conservancy environment is applied to the Port of Benton barging facilities in north Richland to provide for transfer of waterborne cargoes to land while

maintaining the current generally undeveloped condition of the shoreline area outside of those areas needed for port facilities.

**26.10.072 Industrial conservancy environment - Designation criteria.**
The industrial conservancy environment designation is applied to the Port of Benton site on the Columbia River in north Richland.

**26.10.073 Industrial conservancy environment - Management policies.**
In applying the use ~~chart~~ table in this program (RMC 26.30.011), and the zoning allowed uses, the following shall guide the liberal interpretation of these regulations:

A. Water-dependent uses shall be given highest priority, but should occupy only the area needed for the water-related elements of the use.

B. Other industrial uses should be located outside of shoreline jurisdiction.

C. The shoreline trail should be maintained and enhanced through the site with provisions for interruption of use only when the site is actively used for transfer of waterborne cargoes.

D. The open space and ecological functions of the site, particularly the area between the shoreline trail and the water, should be maintained and enhanced.

**26.10.090 Aquatic environment.**

**26.10.091 Aquatic environment - Purpose.**
The purpose of the aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM).

**26.10.092 Aquatic environment - Designation criteria.**
The aquatic environment is defined as the area waterward of the ordinary high water mark of all streams, rivers, and other water bodies constituting shorelines of the state, together with their underlying lands and their water column; but does not include associated wetlands and other shorelands shoreward of the ordinary high water mark. This designation is not found on the shoreline environment map, but shall be assigned based on the description above.

**26.10.093 Aquatic environment - Management policies.**
A. Water-dependent uses and a limited range of water-oriented uses are allowed in the aquatic environment as necessary to meet other objectives of this program, subject to allowed uses in adjacent upland shoreline environment designations and provision of shoreline ecological preservation and enhancement and public access.

B. New over-water structures are allowed only to serve water-dependent uses, public access, or ecological restoration, and should be limited to the minimum necessary to support the structure's intended use. Multiple use of such structures may be required.

C. Transportation, utility facilities, and essential public facilities may be allowed subject to demonstration that no alternative location is feasible.

D. All uses should minimize interference with surface navigation, allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration, prevent water quality degradation, avoid alteration of natural hydrographic conditions, and consider impacts to public views.

E. Ecological enhancement is an allowed and preferred use.

## Chapter 26.20
## GENERAL REGULATIONS

Sections:

26.20.010 Shorelines of statewide significance.
26.20.020 Ecological functions and~~,~~ no net loss.
26.20.030 ~~Sensitive~~ Critical areas.
26.20.040 Shoreline vegetation conservation.
26.20.050 Public access.
26.20.060 Signs.
26.20.070 Archaeological areas and historic sites.
26.20.080 Water quality, stormwater, and nonpoint pollution.
26.20.090 Boat and vessel facilities.

### 26.20.010 Shorelines of statewide significance.

A. Applicability.

1. The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Within Richland's jurisdiction are shorelines of statewide significance. Shorelines ~~thus~~ so designated are important to the entire state of Washington. Because these shorelines are major resources from which all people in the state derive benefit, this jurisdiction gives preference to uses which favor long-range goals and support the overall public interest.

B. Decision Criteria. Every project located on a shoreline of statewide significance shall address the following criteria in order of preference in all permit reviews, in addition to other criteria provided by this program:

1. Recognize and protect the statewide interest over local interests by:

a. Recognizing and taking into account state agencies' policies, programs, and recommendations in developing and administering use regulations and in approving shoreline permits.

b. Recognizing the following statewide interest specific to the Columbia River:

i. Protect, preserve and restore natural resources and ecological functions, including, but not limited to, those associated with endangered species or state priority species, commercial and recreational fisheries, and tribal fishing rights;

ii. Promote recreational use and public access;

iii. Promote water-dependent port uses consistent with other goals of the program.

c. Recognizing the following statewide interest specific to the Yakima River:

i. Preserve and restore ecological functions, particularly those associated with endangered species, commercial and recreational fisheries, and tribal fishing rights;

ii. Promote recreational use and public access.

2. Preserve the natural character of the shoreline.

a. Designate and administer shoreline environments and use regulations to minimize damage to the ecology and environment of the shoreline as a result of manmade intrusions on shorelines.

b. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment, and to accommodate future growth rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.

c. Protect, preserve, and enhance diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.

3. Result in long-term over short-term benefit.

a. Evaluate the short-term economic gain or convenience of developments relative to the long-term potential for impairment of natural shoreline functions.

b. In general, preserve resources and values of shorelines of statewide significance for future generations, and restrict or prohibit development that would irretrievably damage shoreline resources. Actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Restoration should be required where natural resources of statewide importance are diminished over time by cumulative impacts.

c. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.

4. Protect the resources and ecology of the shoreline.

a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem, including, but not limited to, stability, drainage, aesthetic values, and water quality.

b. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including migratory routes and areas used for spawning, nesting, rearing, and habitat.

c. Restrict or prohibit public access onto areas with high ecological value which cannot be maintained in a natural condition under intensive human use.

d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands and gravel bars should be left undisturbed by shoreline development. Gravel mining should be severely limited in shoreline areas.

e. Preserve environmentally ~~sensitive~~critical wetlands for use as open space or buffers and encourage restoration of currently degraded areas.

5. Increase public access to publicly owned areas of the shoreline.

a. Retain and enhance public access to the shoreline, including passive enjoyment, recreation, fishing, and other enjoyment of the shoreline and public waters consistent with the enjoyment of property rights of adjacent lands.

b. Give priority to developing a system of linear access consisting of paths and trails for pedestrians and nonmotorized vehicles along the shoreline areas, providing connections across current barriers such as highways and railroads, and connecting to upland parking that enhances access to the community as a whole.

c. Provide multi-purpose nonmotorized trail facilities also serving the mobility impaired wherever feasible.

6. Increase recreational opportunities for the public on the shoreline.

a. Plan for and encourage development of facilities for recreational use of the shoreline, including boat launches, while preserving or mitigating ecological functions.

b. Retain and enhance public open space and parks along the shoreline to maximize public enjoyment while preserving ecological functions.

**26.20.020 Ecological functions~~,~~ and no net loss.**

A. Shoreline land uses and activities that may have adverse impacts on the environment should be minimized or mitigated during all phases of development (e.g., design, construction, management, and use) to ensure no net loss of ecological functions and processes. Permitted uses are designed and conducted to minimize, insofar as feasible, any resultant damage to the ecology and environment. Shoreline ecological functions that shall be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that shall be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance. In recognition of the importance of shorelines in an arid environment to a wide range of bird species, ~~new construction and major renovation projects shall incorporate~~ the City will recommend the incorporation of bird-friendly building materials and design features in new construction and major renovation projects, including, but not limited to, those recommended by the American Bird Conservancy Guidelines for Bird-Friendly Design.

B. An application for any permit or approval shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions. Mitigation shall occur in the following prioritized order:

1. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.

2. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.

3. Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.

4. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.

5. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or 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 may be authorized.

6. Monitoring the adverse impact and taking appropriate corrective measures.

C. Applicants for permits have the burden of proving that the proposed development is consistent with the criteria set forth in the shoreline master program and the Shoreline Management Act of 1971, including demonstrating all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions.

**26.20.030 ~~Sensitive~~Critical areas.**

~~Sensitive~~ Critical areas within the shoreline jurisdiction shall be regulated in accordance with Chapter 26.60 RMC ~~and include:~~

~~Article I. General Provisions;~~

~~Article II. Wetlands;~~

~~Article III. Fish and Wildlife Habitat Areas;~~

~~Article IV. Geologic Hazard Areas;~~

~~Article V. Critical Aquifer Recharge Areas Protection;~~

~~Article VI. Flood Hazard Areas;~~

~~Article VII. General Information.~~

**26.20.040 Shoreline vegetation conservation.**
In addition to the ~~sensitive areas~~ Critical Areas standards of Chapter 26.60 RMC, the following shall apply to development on the shoreline:

A. A vegetation management plan for city parks and recreation areas, including both developed and undeveloped lands, that protects ecological functions and results in no net loss of these functions through operations, maintenance, or restoration actions in these areas shall be developed and implemented in coordination with the U.S. Army Corps of Engineers. Include integrated vegetation management for control of invasive weeds, and replace existing invasive species with native or compatible species that perform ecological functions similar to native species. Native species are preferred in underdeveloped areas of the shoreline.

B. A vegetation management plan shall be required for all ~~sensitive area~~ Critical Area buffers ~~areas~~ with degraded native vegetation within SMA jurisdiction and shall:

1. Maintain adequate cover of native vegetation including trees and understory. If a portion of the buffer has been cleared, or if tree cover is substantially less than a native climax community, enhancement plantings shall be installed.

2. Provide a dense screen of native trees at the perimeter of the buffer to provide and protect ecological functions and prevent viewing of adjacent development from within the buffer. If existing vegetation or topographic features are not sufficient for these purposes, planting shall be required. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen.

3. Provide an integrated vegetation management plan for control of invasive weeds, and replace existing invasive species with native or compatible species.

4. Provide a monitoring and maintenance plan. This provision may be waived by the Shoreline Administrator (or other applicable approval authority) for single-family residential lots.

C. In cases where approved development results in unavoidable adverse impacts to existing shoreline vegetation, mitigation shall be required to ensure that there will be no net loss of the ecological functions. Mitigation shall take place on site to the maximum extent feasible. A guarantee, in the form of a bond or other security device, shall be required to assure successful establishment, including an appropriate monitoring period.

D. Mitigation plans shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule assuring completion prior to occupancy is approved.

E. Lawns and other nonnative vegetation maintained within shoreline jurisdiction shall minimize use of chemical fertilizers, pesticides, herbicides, or other similar substances. Such chemical treatments shall be applied in accordance with manufacturer's recommendations and associated local, state, and federal laws and regulations. Applications in solid time release form shall be preferred over liquid or concentrate

application. Best management practices (BMPs) shall be implemented in all chemical applications.

F. Aquatic weed management by prevention is the first priority. Where active removal or destruction is necessary, it should be the minimum required to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.

1. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened, or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

2. The control of aquatic weeds by derooting, rotovating or other method which disturbs the bottom sediment shall be considered development for which a shoreline permit is required, unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity, in which case it shall be considered normal maintenance and repair, and therefore exempt from the requirement to obtain a shoreline permit.

3. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control is demonstrated to be in the public's interest.

**26.20.050 Public access.**

A. Public access on the Columbia River is currently provided by a nearly continuous riverfront trail system developed by the city on public and private lands. Future public access on public and private lands should be consistent with the overall strategy for providing continuous trails along the shoreline. Future development may be required to reconfigure the existing trail to provide enhanced public access and fit with specific development plans, including public and private open space.

B. Public access on the Yakima River should be guided by the adopted city and regional trail plans. Future public access on public and private lands should be consistent with the overall strategy for providing continuous trails along the shoreline while taking into consideration the range of ecological functions and sensitivities of different areas. Future development shall provide public access consistent with the trail plan, and may provide additional trails subsidiary to the main trail, where such opportunities are available to provide enhanced public access and fit with specific development plans, including public and private open space.

C. Physical public access is preferred to solely visual access. Where physical public access is determined not feasible, the applicant shall incorporate visual public access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a trail, park, or other area serving as a means of physical approach to public waters.

D. All developments requiring shoreline substantial development or shoreline special use permits, and all subdivision or development of more than four lots or residential units, shall provide public access to the shoreline unless criteria in subsections (D)(1) and (2) of this section are met:

1. The applicant demonstrates one or more of the following provisions apply:

    a. Unavoidable health or safety hazards to the public would accompany public access that cannot be avoided by application of alternative design features or other solutions;

    b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features;

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

    d. Unacceptable environmental harm will result from the public access that cannot be mitigated;

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

    f. Public access is provided by a public entity through implementation of a public access plan incorporated into its master plan, developed through a public participation process and incorporated into this program.

2. Based on documentation provided by the applicant, the city determines that all reasonable alternatives have been exhausted, including, but not limited to:

    a. Limiting the size or placement of public access facilities;

    b. Regulating access by such means as maintaining a gate and/or limiting hours of use;

    c. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and

    d. Providing for access at a site geographically separated from the proposal, including contribution to regional trail or public access plans.

E. The following activities generally are not required to provide public access, except as determined on a case-by-case basis as part of development review:

1. Single-family development of four or fewer units;

2. Dredging;

3. Landfill and excavation;

4. Mining;

5. Private docks serving four or fewer units;

6. Minor additions or changes to an existing use that do not change the configuration of the existing use or add substantial facilities; or

7. Ecological restoration or enhancement activities not associated with a development.

F. Specific provisions for public access shall be evaluated on a case-by-case basis to ensure that they are of the kind, quality and scope to provide a substantial public benefit with respect to the Shoreline Management Act's objectives, and do not create a disproportionate impact on landowners.

G. The amount and configuration of public access required shall depend on the proposed use(s), the range of ecological functions and sensitivities of different areas on a site, the shoreline environmental designation, and the following criteria:

1. Any development or use that creates increased demand for public access to the shoreline shall provide public access to mitigate this impact.

2. Any development or use that interferes with an existing public access shall provide public access to mitigate this impact.

3. Development within the waterfront environment is encouraged to provide public access in the form of a public plaza meeting the criteria in RMC 26.30.040(F)(2).

4. Uses and developments that utilize aquatic lands shall provide public access consistent with maintaining the use and public safety. Public access shall be provided generally equivalent to 10 to 20 percent of the public harbor land or aquatic land utilized. Where over-water access is found to be infeasible pursuant to subsection (D) of this section, upland on- and off-site facilities may be approved as an alternative. Single-family residential uses or uses that are developed with public funding or other public resources are exempt from this criterion.

5. New or expanded dikes and levees shall provide linear public access trails along the facility.

6. Public roads or other public facilities parallel to or crossing shorelines shall provide public access trails or sidewalks within the right-of-way. Additional right-of-way acquisition may be required to provide public access.

7. Public utilities within the shoreline, other than distribution facilities, shall provide public access consistent with maintaining the use and public safety.

H. Public access shall be consistent with the shoreline environmental designation and may consist of a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat-launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters, and

may include interpretive centers and displays. Public access improvements shall meet the following location and design criteria:

1. Public access shall be provided as close (horizontally and vertically) as feasible to the water's edge to provide the general public with opportunity to reach, touch, view, and enjoy the water's edge; provided, that public access does not adversely affect ~~sensitive~~ critical ecological features or lead to an unmitigated reduction in ecological functions.

2. If open space is provided along the shoreline in the form of ~~sensitive~~ critical area buffers~~,~~ and public access can be provided in a manner that will not result in a loss of ecological function, a public pedestrian access walkway along and parallel to the waterfront of the property is the preferred design. The walkway shall be set back from ~~sensitive~~ critical features and may provide only limited and controlled access to the water's edge. Fencing may be provided to control damage to plants and other ecologically sensitive features and shall provide for wildlife movement. Soft surface trails of limited width should be specified, where appropriate, to reduce impacts to ecologically sensitive resources.

3. Public access shall be connected directly to the nearest public street; shall include provisions for physically impaired persons where feasible and where additional impact on ecological functions will not occur; and shall be located adjacent to and connect with other public areas, accesses, and connecting trails.

4. Where physical access to the water's edge is not present or appropriate, a public viewing area shall be provided in cases where views of the water or shoreline are available.

5. In natural open space zones, the need for trails for ADA access should be balanced with the extent of alteration of the natural environment required to accommodate such facilities.

6. Design shall minimize intrusions of privacy for both site users and public access users by avoiding locations adjacent to windows and/or outdoor private open spaces, or by screening or other separation techniques.

7. Design shall provide for the safety of users, including the control of offensive conduct through providing public visibility (not including removal of buffer vegetation), or provision of specific oversight. The administrator may authorize public access to be temporarily closed to develop a program to address offensive conduct. If offensive conduct cannot be reasonably controlled, alternative facilities may be approved as a permit revision.

8. Public amenities appropriate to the use of the public access space shall be provided. These amenities may include, but are not limited to, benches, picnic tables, public docks and sufficient public parking.

9. Public restrooms and facilities for animal waste may be required as part of public access amenities for developments by public entities or commercial developments that attract a substantial number of persons.

I. View Protection.

1. Shoreline development shall be designed to avoid blocking, reducing, or adversely interfering with the public's existing visual access to the water and shorelines.

2. Development and uses on public lands such as parks, open space, street ends, rights-of-way and utilities shall provide visual access corridors where views of water bodies are available from public roadways and public viewpoints to the extent feasible, consistent with facilities for water-dependent use or recreation use and maintenance of native vegetation within required buffers ~~for sensitive areas~~.

J. Public access shall be maintained over the life of the use or development. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

1. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity, or in accordance with provisions for guaranteeing installation through a performance assurance.

2. Public access provisions shall be recorded as an easement or a dedication to the public on the face of a plat or short plat. Said recording with the Benton County auditor's office shall occur at the time of building permit approval or plat recordation, whichever comes first.

3. Maintenance of the public access shall be the responsibility of the owner unless expressly accepted by a public or nonprofit agency.

4. The minimum width of public access easements shall be 15 feet, unless the city determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

5. Public access shall be available to the public 24 hours per day unless specific exceptions are granted though the shoreline substantial development permit process where safety hazards to users or adjacent uses are substantiated.

6. Public access signs bearing the standard state-approved logo or other approved design shall be installed and maintained by the applicant and owner. The sign(s) must indicate the public's right of access and hours of access, and shall be installed in conspicuous locations at public access sites. Signs may display restrictions of public access as approved by a specific condition of permit approval.

K. Public access afforded by shoreline street ends, public utilities and rights-of-way shall be preserved, maintained and enhanced pursuant to RCW 35.79.035 and 36.87.130.

**26.20.060 Signs.**
A. All signs shall be located and designed to be compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Signs shall minimize interference with vistas, viewpoints, and visual access to the shoreline.

B. All signs shall be permitted in accordance with the procedures of RMC Title 27 in addition to this ~~program~~SMP.

C. Freestanding commercial signs are prohibited between buildings and the shoreline, except for public information signs.

D. Except where no feasible location outside of SMA jurisdiction is available, signs placed in SMA jurisdiction should be limited to public information signs directly relating to a shoreline use or activity, water navigational signs, and legally required highway and railroad signs necessary for operation, safety and direction.

E. Over-water signs or signs on floats or pilings shall be allowed only when serving a related water-dependent use, and only when the primary users of the facility approach by water and would not be served by land-mounted signs.

F. Lighted signs shall be hooded, shaded, or aimed so that lighting will not result in glare when viewed from public access facilities or watercourses.

G. Conceptual sign plans and design guidelines shall be submitted for review and approval at the time of shoreline permit application, and shall be utilized in future review of sign permits for the property.

H. Signs shall not be permitted where their location or design obstructs or otherwise interferes with traffic movement, or where the location or orientation unnecessarily interferes with upland users.

**26.20.070 Archaeological areas and historic sites.**
Included on Richland's shorelines are areas known to be of significant archaeological and historic value. The Washington State Department of Archaeology and Historic Preservation is recognized as the authority on matters concerning areas recorded as important archaeological or historic sites. In addition, memoranda of understanding with tribes should apply in accordance with the terms of such agreement(s).

A. Prior to approval of any permit requests, city of Richland staff shall consult with the Washington State Department of Archaeology and Historic Preservation for the purpose of identifying potentially valuable archaeological data, and for recommendations concerning preservation or salvage of the data identified.

B. Developers and property owners shall, in the event of discovery of archaeological resources during excavation, immediately stop work and notify the city of Richland and the Washington State Department of Archaeology and Historic Preservation. Development may resume only after approval by the Department of Archaeology and Historic Preservation (DAHP). The city or DAHP will notify tribes if the nature of the resource so warrants.

C. Where a professional archaeologist or historian recognized by the state of Washington has identified an area or site as having significant cultural value, or where such area is listed on a national, state, or local historic register, the city may require evaluation of the resource and application of appropriate mitigation measures as a condition of permit issuance.

D. Permits for development in shoreline areas documented to contain archaeological resources shall require inspection of the site prior to and during construction by a professional archaeologist in coordination with potentially affected Indian tribes.

**26.20.080 Water quality, stormwater, and nonpoint pollution.**

A. All development activities approved under this title shall be designed and maintained in a manner consistent with the city's stormwater management plan and adopted engineering design standards. All proposed stormwater control and stormwater discharges shall be in compliance with the latest Department of Ecology Stormwater Management Manual for Eastern Washington adopted by the City.

B. Shoreline development shall be designed and maintained to minimize the need for chemical treatments, including application of fertilizers, pesticides and herbicides, in order to prevent contamination of surface and ground water resources.

C. All structures placed within water bodies or that may come in contact with water shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals. Materials treated with creosote are prohibited in the shoreline environment.

**26.20.090 Boat and vessel facilities.**

A. All boating uses, development, and facilities shall protect the rights of navigation, shall demonstrate that they result in no net loss of ecological functions, and may be required to provide on-site and off-site mitigation.

B. Shared moorage serving single-family uses consisting of docks and piers with more than four berths, commercial moorage available to the general public, and moorage related to clubs or other groups not associated with a particular residential development are regulated as marinas under RMC 26.30.060.

C. Joint-use/shared docks and piers with four or fewer berths or any number of mooring buoys are regulated under this section.

D. Boating facilities shall avoid:

1. Braided or meandering river channels where the channel is subject to change in alignment or on point bars or other accretion beaches;

2. Areas where shoreline modification is required for approach and other upland facilities;

3. Locations where they would adversely impact upland riparian or nearshore habitat for aquatic species;

4. Locations where they would adversely affect flood channel capacity or create a flood hazard; and

5. Locations where water depths for vessels are not adequate without dredging.

E. Boating facilities, except those accessory to single-family residences, shall provide public access in accordance with RMC 26.20.050, Public access, and shall be located and designed such that existing public access to public shorelines is not obstructed nor made hazardous.

F. All in- and over-water structures shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Wood treated with creosote, pentachlorophenol, or other similarly toxic materials is prohibited. Docks generally shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.

G. Vessels shall be restricted from extended mooring on waters of the state except when such mooring is allowed by state regulations, a lease or other permission is obtained from the state, and impacts to navigation and public access are mitigated.

H. Boat Launches.

1. Boat launches accessory to single-family and multifamily residential uses are prohibited.

2. Private boat launches shall be allowed only for water-dependent uses and marinas, and only when it is demonstrated that public boat launches will not feasibly serve the use. Rail and track systems shall be preferred over concrete ramps.

3. New public boat launches for general public use, or expansion of public boat launches by adding launch lanes, shall demonstrate that:

a. Water depths are adequate to avoid the need for dredging and eliminate or minimize potential loss of shoreline ecological functions or other shoreline resources from offshore or foreshore channel dredging.

b. Adjacent residential properties will not be adversely affected by adverse proximity impacts such as noise, light and glare, or scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.

c. Exterior lighting will not adversely impact aquatic species.

d. Adequate provisions are made for restroom, sewage, and solid waste disposal facilities in compliance with applicable health regulations.

e. Access and parking shall not produce traffic hazards, shall not result in excessive noise or other impacts, shall minimize traffic impacts on nearby streets, and shall include adequate parking for boat trailers. Parking on public streets may be allowed for peak periods if it is demonstrated that such parking will not adversely impact through traffic or residential uses.

I. New moorage to serve a single-family residence may be allowed only if:

1. An applicant demonstrates that existing facilities (boat launches and public and private marinas) are not reasonably available to meet demand.

2. The lot does not have access to shared moorage in an existing subdivision and there is no homeowners' association or other corporate entity capable of developing shared moorage.

3. In cases where a new dock or pier is approved, the city may require an agreement to share with nearby residences with water frontage and provide for expansion to serve such additional users.

J. A dock or pier serving a single-family residence shall meet the following standards:

1. Piers and Ramps.

a. To prevent damage to shallow-water habitat, piers and/or ramps shall extend at least 40 feet perpendicular from the ordinary high water mark (OHWM). In some instances and sites, it may not be practical to extend a ramp 40 feet from the OHWM (for instance, where this could conflict with navigation). The city may grant exceptions on a case-by-case basis based on documentation of specific limitations that exist, and in coordination with other permitting agencies.

b. Piers and ramps shall be no more than four feet in width.

2. The bottom of either the pier or landward edge of the ramp shall be elevated at least two feet above the plane of the OHWM.

a. Grating shall cover the entire surface area (100 percent) of the pier and/or ramp. The open area of grating shall be at least 50 percent, as rated by the manufacturer.

b. Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

c. Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, and shall be sized no larger than four feet wide by four feet long, unless otherwise approved by the city, NOAA Fisheries, the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife. The maximum anchor height shall be only what is necessary to elevate the bottom of either the pier or landward edge of the ramp at least two feet above the plane of the OHWM. The intent of this criterion is to limit impacts to riparian vegetation along the shoreline. The city may grant exceptions from the 10-foot landward requirement on a case-by-case basis if site conditions warrant based on documentation of specific limitations that exist, and in coordination with other permitting agencies.

3. Preservatives.

a. The dock shall be built with materials that do not leach preservatives or other materials.

b. No treated wood of any kind shall be used on any over-water structure (float, pier, or ramp).

c. No paint, stain, or preservative shall be applied to the over-water structure.

4. General.

a. No electricity shall be provided to, or on, the over-water structure.

b. No boat lifts or watercraft lifts (e.g., jet ski lifts) of any type will be placed on, or in addition to, the over-water structure. The city may grant exceptions on a case-by-case basis in coordination with other permitting agencies if the applicant can demonstrate that the proposed boat lift meets the intent of the criteria to minimize structure, maximize light penetration, and maximize depth. However, these structures must meet the size criteria of the plan (total 160 square feet).

c. Shoreline armoring (i.e., bulkheads, rip-rap, and retaining walls) shall not occur in association with installation of the over-water structure.

d. Construction of the over-water structure shall be completed during the in-water work window (November 1st to February 28th).

5. Piling and Float Anchors.

a. Piling shall not exceed eight inches in diameter. The intent of this criterion is not to require existing pilings to be removed, cut, or capped, but to place limits on the size of new pilings. The city may grant exceptions on a case-by-case basis in coordination with other permitting agencies in areas where safety considerations merit larger pilings.

b. Pilings shall be spaced at least 18 feet apart on the same side of any component of the over-water structure. The pier/ramp and float are separate components.

c. Each over-water structure shall utilize no more than four piles total for the entire project. A combination of two piles and four helical anchors may be used in place of four piles.

d. All pilings shall be fitted with devices to prevent perching by piscivorous (fish-eating) birds.

e. Submerged float anchors will be constructed from concrete, and shall be horizontally compressed in form, by a factor of five or more, for a minimum profile above the stream bed (the horizontal length and width will be at least five times the vertical height). A helical screw anchor may be utilized where

substrate allows. The owner shall be responsible for demonstrating feasibility and for proper installation such that anchor displacement does not occur.

f. No in-water fill material will be allowed, with the exception of pilings and float anchors. Uncured concrete or its by-products shall not be allowed.

6. Floats.

a. Float components shall not exceed the dimensions of eight by 20 feet, or an aggregate total of 160 square feet, for all float components.

b. Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water (e.g., rectangular float tubs).

c. Grating shall cover 100 percent of the surface area of the float(s). The open area of the grating shall be no less than 50 percent, as rated by the manufacturer.

d. Functional grating will cover no less than 50 percent of the float.

e. Floats shall not be located in shallow-water habitat where they could ground or impede the passage or rearing of any salmonid life stage.

f. Nothing shall be placed on the over-water structure that will reduce natural light penetration through the structure.

g. Floats shall be positioned at least 40 feet horizontally from the OHWM and no more than 100 feet from the OHWM, as measured from the landward-most edge of the float. Adjustments to this requirement may be made on an individual basis where strict compliance with this standard may present safety issues or be excessive for site conditions.

h. Project construction shall cease under high flow conditions that could result in inundation of the project area, except for efforts to avoid or minimize resource damage.

K. Shared residential docks and piers shall generally meet the standards for single-family docks above, except that the number of floats and the size of piers and other facilities may be increased to serve additional slips to provide one moorage space per residence served.

L. Docks and piers shall be set back a minimum of 10 feet from side property lines, except that joint-use facilities may be located closer to, or upon, a side property line when agreed to by contract or covenant with the owners of the affected properties. This agreement shall be recorded with the Benton County auditor, and a copy filed with the shoreline permit application.

M. Moorage Related to Subdivision.

1. New subdivisions and short plats shall contain a restriction on the face of the plat prohibiting individual docks. A site for community or shared moorage shall be designated on the plat and owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to lots with water frontage in the subdivision. The over-water area of the dock shall be made available to other lots and the public for community access, and may be required to provide public access depending on the scale of the facility.

2. Approval of a shared moorage for a subdivision shall be subject to the following criteria:

a. There is no reasonably available public or private moorage that can serve the moorage needs of the residences or the subdivision.

b. Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage. One moorage space per lot may not be presumed.

c. The size of a dock must consider the use of mooring buoys for some or all moorage needs, and the use of all or part of the dock to allow tender access to mooring buoys.

d. Public access shall be provided in all shared docks utilizing public aquatic lands that accommodate five or more vessels.

3. If a community or shared dock is not developed at the time of subdivision, a community association shall be established with the authority to levy assessments within the subdivision to construct and maintain a community dock in the future. The failure of a subdivision to develop a community or shared dock shall not affect the prohibition on individual docks.

N. Multifamily residences, hotels, motels, and other commercial developments proposing to provide moorage facilities shall meet the criteria for a marina. Use of the moorage must be open to the general public on the same basis as residents or occupants and shall provide public access. If approved, no more than one joint-use moorage facility may be provided for a parcel or development.

O. Applications for docks or piers serving single commercial or industrial enterprises shall demonstrate that:

1. The facility serves a water-dependent use;

2. The facility is the minimum size required to serve the proposed use; provided, that provisions for expansion or future joint use may be provided; and

3. The facility minimizes impacts to the extent feasible. Where impacts are unavoidable, the facility mitigates impacts to navigation, aquatic habitat, upland habitat, public access to the water for recreation, fishing and similar use, and public access to publicly accessible lands below the OHWM.

P. Commercial or industrial moorage facilities shall demonstrate that:

1. The dock or pier shall be the minimum length required to serve the use.

2. Access from the shore to piers or floats shall minimize water cover in order to minimize impacts to shallow-water habitat.

3. Piers and ramps shall be elevated to provide the maximum feasible light penetration.

4. Grating, or clear translucent material, shall be utilized to the maximum extent feasible to provide light penetration.

5. Floats shall be constructed and attached so that they do not ground out on the substrate.

6. Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

7. Pile diameter shall be minimized while meeting structural requirements.

8. Covered structures may be permitted only to serve a water-dependent use where it is demonstrated that adequate upland sites are not feasible, and it is demonstrated that the area covered is the minimum necessary to serve the use.

# Chapter 26.30
# USE REGULATIONS

Sections:


26.30.010 Use and dimensional standards.
26.30.011 Use table.
26.30.012 Bulk and dimension ~~chart~~table.
26.30.013 Provisions for additional height in the waterfront environment.
26.30.020 Agriculture.
26.30.030 Aquaculture.
26.30.040 Commercial development.
26.30.050 Industrial development and port facilities.
26.30.060 Marinas.
26.30.070 Mining.
26.30.080 Recreation.
26.30.090 Residential development.
26.30.100 Transportation facilities.
26.30.110 Utilities.


## 26.30.010 Use and dimensional standards.

## 26.30.011 Use table.

The following use activity-shoreline environment compatibility ~~chart~~ table shall be consulted as a general guide to determine permitted uses in the various shoreline environments. Use activities permitted or requiring a shoreline special use permit must be developed in accordance with all policies and regulations of the shoreline master program.

A. All land uses allowed are subject to the preference for water-oriented uses and subject to specific criteria for uses included in these regulations.

B. Uses allowed in the aquatic environment are those allowed in the adjacent upland environment, limited to water-dependent use, ecological enhancement, and those transportation and utility facilities and essential public facilities for which no alternative location is feasible.

C. If a use is prohibited in the underlying zoning district, it is also prohibited in the shoreline.

D. KEY: X = Prohibited, P = Permitted, A = Permitted as an Accessory Use, SU = Shoreline Special Use Permit.

| Land Use | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| **Resource Uses** | | | | | | | |
| Agricultural Use | X | X | X | P | X | X | X |
| Raising Crops, Trees, Vineyards | X | X | X | P | X | X | X |
| Limited Raising or Keeping of Small and Large Livestock | X | X | X | P | X | X | X |
| Roadside Stands and On-Farm Markets for Marketing Fruit or Vegetables | X | X | X | P | X | X | X |
| Animal Feeding Operations/Concentrated Animal Feeding Operations (AFO/CAFOs) | X | X | X | SU | X | X | X |
| Mining | X | X | X | SU | X | X | X |
| **Automotive, Marine and Heavy Equipment** | | | | | | | |
| Automotive Repair Shops/Service Stations/Part Sales | X | X | X | X | X | X | X |
| Boat Building | X | X | X | X | X | X | X |
| Car Wash – Automatic or Self-Service | X | X | X | X | X | X | X |
| Large Equipment Sales/Rental/Repair/Service | X | X | X | X | X | X | X |
| Marinas | X | X | SU | X | X | SU | X |
| Marine Equipment Rentals | X | X | X | X | X | P | X |
| Marine Gas Sales | X | X | X | X | X | SU | X |
| Marine Repair | X | X | X | X | X | P | X |
| Outdoor Sales/Rentals | X | X | X | X | X | X | X |
| Warehousing, Wholesale Use | X | X | X | X | X | X | P |
| **Business and Personal Services** | | | | | | | |
| Animal Shelter | X | X | X | SU | X | X | X |
| Commercial Kennel | X | X | X | SU | X | X | X |
| Contractors' Offices | X | X | X | X | X | X | X |
| Funeral Establishments | X | X | X | SU | X | X | X |
| General Service and Personal Services Businesses | X | X | X | X | X | P | X |
| Health/Fitness Facility | X | X | X | X | X | A | X |
| Health Spa | X | X | X | X | X | P | X |
| Animal Hospital/Clinic | X | X | X | SU | X | X | X |
| Laundry/Dry Cleaning, Retail | X | X | X | X | X | P | X |
| Mini-Warehouse | X | X | X | X | X | X | X |

| Land Use | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| Photo Processing, Copying, Mailing and Printing Services | X | X | X | X | X | P | X |
| ~~Video Rental Store~~ | ~~X~~ | ~~X~~ | ~~X~~ | ~~X~~ | ~~X~~ | ~~P~~ | ~~X~~ |
| Cafeterias | X | X | A | X | X | A | X |
| Delicatessen | X | X | X | X | X | P | X |
| Drinking Establishments/Breweries/Wineries | X | X | X | X | X | P | X |
| Portable Food Vendors | X | X | X | X | X | A | X |
| Restaurants/Drive-Through | X | X | X | X | X | X | X |
| Restaurants | X | X | X | X | X | P | X |
| **Industrial/Manufacturing Uses** | | | | | | | |
| Port Facilities for Transferring Materials from Vessels to the Shore and Temporary Staging Prior to Transportation Off Site | X | X | X | X | X | X | P |
| Excavating, Processing, Removal of Topsoil, Sand, Gravel, Rock or Similar Natural Deposits | X | X | X | SU | X | X | X |
| Manufacturing Uses | X | X | X | X | X | X | X |
| Research, Development and Testing Facilities | X | X | X | X | X | X | X |
| Wholesale Facilities and Operations | X | X | X | X | X | X | X |
| Wineries – Production | X | X | X | SU | X | X | X |
| **Office Uses** | | | | | | | |
| Office | X | X | X | X | X | P | X |
| Schools, Commercial | X | X | X | X | X | P | X |
| Travel Agencies | X | X | X | X | X | P | X |
| **Public/Quasi-Public Uses** | | | | | | | |
| Churches/Clubs or Cultural Institutions | X | X | X | SU | P | P | X |
| Public Park | SU | P | P | P | P | P | P |
| Golf Course | X | X | SU | SU | P | P | X |
| General Park O&M Facility | X | X | SU | SU | P | X | X |
| Hospitals | X | X | X | X | SU | X | X |
| Passive Open Space Use | P | P | P | P | P | P | P |
| Power Transmission and Irrigation Wasteway Easements and Utility Uses | SU | SU | SU | P | P | P | P |

| Land Use | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| Electrical Substations | X | X | X | X | X | X | X |
| Public Agency Buildings or Facilities | X | X | X | P | P | P | X |
| Public Campgrounds | X | X | P | SU | P | P | X |
| Schools | X | X | X | P | P | P | X |
| Schools, Alternative | X | X | X | P | P | X | X |
| Special Events Including Concerts, Tournaments and Competitions, Fairs, Festivals and Similar Public Gatherings | X | X | P | P | P | P | X |
| Trail Head Facilities for Equestrian, Pedestrian, or Nonmotorized Vehicle | X | P | P | P | P | P | P |
| Trails for Pedestrian Use Only | P | P | P | P | P | P | P |
| Trails for Equestrian or Nonmotorized Vehicle Use | SU | P | P | P | P | P | P |
| **Recreational Uses** | | | | | | | |
| Art Galleries or Arcades | X | X | X | X | X | P | X |
| Boat Mooring Facilities | X | ~~X~~ P | ~~X~~ P | ~~X~~ P | ~~X~~ P | P | ~~X~~ SU |
| Cinema, Indoor | X | X | X | X | X | P | X |
| Commercial Recreation, Indoor | X | X | X | X | X | P | X |
| Commercial Recreation, Outdoor | X | X | X | SU | X | P | X |
| House Banked Card Rooms | X | X | X | X | X | P | X |
| Recreational Vehicle Campgrounds | X | X | X | SU | X | X | X |
| Recreational Vehicle Parks | X | X | X | X | X | X | X |
| Stable, Public | X | X | X | X | X | X | X |
| Theater | X | X | X | X | X | P | X |
| **Residential Uses** | | | | | | | |
| Accessory Dwelling Unit | X | X | X | A | A | A | X |
| Apartment, Condominium (3 or more units) | X | X | X | X | X | P | X |
| Assisted Living Facility | X | X | X | X | P | P | X |
| Bed and Breakfast | X | X | X | SU | SU | P | X |
| Day Care Center | X | X | X | SU | SU | P | X |
| Dormitories, Fraternities, and Sororities | X | X | X | X | P | P | X |
| Dwelling, One-Family | X | X | X | P | P | X | X |

| Land Use | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| Dwelling, Two-Family Detached | X | X | X | X | X | P | X |
| Dwelling Units for a Resident Watchman or Custodian | X | X | X | A | A | A | X |
| Emergency Housing | X | X | X | P | P | X | X |
| Emergency Shelters | X | X | X | P | P | X | X |
| Houseboats | X | X | X | X | X | X | X |
| Hotels or Motels | X | X | X | X | X | P | X |
| Nursing or Rest Home | X | X | X | X | X | P | X |
| Permanent Supportive Housing | X | X | X | X | X | P | X |
| Temporary Residence | X | X | X | P | P | P | X |
| Transitional Housing | X | X | X | X | X | P | X |
| **Retail Uses** | | | | | | | |
| Adult Use Establishments | X | X | X | X | X | X | X |
| Apparel, Book, Drug, Florist or Other Specialty Retail | X | X | X | X | X | P | X |
| Building, Hardware, Garden Supply, Nursery, Feed Stores or Outdoor Sales | X | X | X | X | X | X | X |
| Food Stores | X | X | X | X | X | P | X |
| **Miscellaneous Uses** | | | | | | | |
| Bus Station, Transfer Station or Terminal | X | X | X | X | X | X | X |
| Community Festivals and Street Fairs | X | X | P | P | P | P | X |
| Convention Center | X | X | X | X | X | P | X |
| Macro-Antennas | SU | SU | SU | SU | P | P | SU |
| Storage in an Enclosed Building | X | X | X | X | A | A | X |
| **Transportation** | | | | | | | |
| Roads and Railroads Serving Shoreline Uses | X | SU | SU | SU | SU | SU | SU |
| Roads and Railroads Not Serving Shoreline Uses | X | SU | SU | SU | SU | SU | SU |
| Parking Areas Serving Primary Use within the Shoreline | X | P | P | P | P | P | P |
| Parking Areas Not Serving Primary Use within the Shoreline | X | X | X | X | X | X | X |
| Parking as a Principal Use | X | X | X | X | X | X | X |
| **Utilities** | | | | | | | |

| Land Use | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| Public and Private Utility Distribution Serving Shoreline Uses, Water, Sewer, Electrical, Gas, and Communication | X | P | P | P | P | P | P |
| Public and Private Utility Distribution Serving Uses within the City | X | P | P | P | P | P | P |
| Utility Facilities Serving Uses Not within the City | SU | SU | SU | SU | SU | SU | SU |
| Electrical Transmission of Greater Than 50 Kilovolts | SU | SU | SU | SU | SU | SU | SU |
| Electric Transmission/Distribution Substations | X | X | X | X | X | X | X |
| Utility Buildings Including Pump Stations | X | SU | SU | SU | SU | SU | SU |
| Communication Antennas | X | SU | SU | SU | SU | SU | SU |
| Monopole | X | SU | SU | SU | SU | X | SU |
| **Other** | | | | | | | |
| Structures for Flood Management, Including Drainage or Storage and Pumping Facilities | X | SU | SU | SU | SU | SU | SU |
| Fish and Wildlife Resource Enhancement | P | P | P | P | P | P | P |
| Essential Public Facilities | SU | SU | SU | SU | SU | SU | SU |
| **USES NOT SPECIFIED** | SU | SU | SU | SU | SU | SU | SU |

## 26.30.012 Bulk and dimension ~~chart~~table.

| Standard | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| ~~Sensitive~~ Critical Area Buffer Water-Dependent Use | NA[1] | NA[1] | NA[1] | NA[1] | NA[1] | NA[1] | NA[1] |
| ~~Sensitive~~ Critical Area Buffer Non-Water-Dependent Use | ~~As provided by Table 26.60.024(D), Wetland Buffer Widths, Table 26.60.042, Riparian Buffer Width~~Subject to applicable requirements in Chapter 26.60. | | | | | | |
| Minimum Building Setback from OHWM Water-Dependent Use | NA[2] | NA[1, 2] | NA[1] | NA[1] | NA[1] | NA[1] | NA[1] |
| Minimum Building Setback | NA[2] | 15 feet (except for residential, which is 25 feet) from the edge of ~~the applicable riparian buffer~~any buffers required by Chapter 26.60, or 15 feet (except for residential, which is 25 feet) from the landward edge of a | | | | | |

| Standard | Natural | Recreation Conservancy | Recreation | Rural | Residential | Waterfront | Industrial Conservancy |
|---|---|---|---|---|---|---|---|
| Non-Water-Dependent Use | | roadway, canal, levee, paved trail or parking area., ~~as applicable, as provided in Table 26.60.042~~[2] | | | | | |
| Minimum Front Yard Setback | As provided by zoning | | | | | | |
| Minimum Side Yard Setback | As provided by zoning | | | | | | |
| Minimum Rear Yard Setback | As provided by zoning | | | | | | |
| Minimum Lot Width – One-Family Attached Dwellings | As provided by zoning | | | | | | |
| Minimum Lot Area | As provided by zoning | | | | | | |
| Maximum Density – Multifamily Dwellings (units/square feet) | NA | NA | NA | NA | NA | 1:1,500 | NA |
| Maximum Lot Coverage | 0% | 5% | 10% | 10% | 40% | NA | 20% |
| Maximum Building Height | NA[2] | 16 feet | 35 feet | 25 feet | 35 feet | 35/55 feet[3] | 35 feet |
| Maximum Building Height – Detached Accessory Buildings | NA[2] | 16 feet | 16 feet | 16 feet | 16 feet | 35 feet | 35 feet |

1. No ~~sensitive~~ critical area buffer or building setback applies to water-dependent elements of a water-dependent use.
2. Buildings are not allowed in locations designated with the natural ~~open space zoning district~~environment shoreline environment designation.
3. Building height may be increased to up to 55 feet in the waterfront environment subject to the provisions of RMC 26.30.013.

**26.30.013 Provisions for additional height in the waterfront environment.**
Structures in the waterfront environment may exceed a height of 35 feet based upon a review of the site plan and structure and compliance with the following criteria:

A. Additional open space or a plaza is provided on the site that earns bonus floor area in accordance with RMC 26.30.040(F)(2).

B. The hearing examiner finds that:

1. The increased building height will not obstruct the view of a substantial number of residences on areas adjoining such shorelines;

2. Overriding considerations of the public interest will be served by providing additional public open space and facilities that enhance public enjoyment of the shoreline;

3. The proposed building is aesthetically pleasing in relation to buildings and other features in the vicinity; and

4. The building is located a sufficient distance from the Columbia River to avoid creating a visual barrier.

**26.30.020 Agriculture.**

A. This program shall not restrict lawfully existing agriculture activities that have been discontinued for less than five years. An agricultural use shall not be considered discontinued if it is allowed to lie fallow in which it is plowed and tilled but left unseeded; allowed to lie dormant as a result of adverse agricultural market conditions; or allowed to lie dormant because the land is enrolled in a local, state, or federal conservation program.

B. All new agricultural activities and facilities on land not meeting the definition of agricultural land are governed by this program and shall observe the ~~sensitive~~ critical area standards and buffer requirements of this program and the criteria in this section.

C. Agricultural activities shall follow recognized best management practices (BMPs) that improve or maintain water quality and quantity, reduce soil erosion, maintain or improve soil conditions, and provide for wildlife habitat. These BMPs include applicable best management practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Service's Field Office Technical Guide.

The applicant is encouraged to coordinate with the Benton County conservation district and the natural resources conservation service in the development of best management practices for their agricultural activity.

D. New intensive agricultural activities such as animal feeding operations/concentrated animal feeding operations (AFO/CAFOs) and row cropping requiring intensive application of fertilizers, animal waste, herbicides and pesticides shall be located outside of shoreline jurisdiction, unless the proposed use is within an established agricultural area and no alternative agricultural activity is feasible. New intensive agricultural activities shall be implemented in accordance with a farm conservation plan including a monitoring program that assures no net loss of ecological functions.

E. New facilities for liquid manure storage shall be located outside of shoreline jurisdiction unless no alternative location is feasible and a shoreline special use permit is obtained. New liquid manure storage facilities shall be implemented in accordance with a farm conservation plan including a monitoring program that assures no net loss of ecological functions.

F. New manure spreading operations shall be carried out so that animal wastes do not enter water bodies, wetlands, or ground water recharge areas.

G. The construction of a barn or similar agricultural structure is exempt from obtaining a shoreline substantial development permit, but nonetheless must comply with the regulations of this program.

**26.30.030 Aquaculture.**
Aquaculture is the culture of farming of foodfish, shellfish, or other aquatic plants and animals. Potential locations for aquacultural enterprises are relatively restricted due to specific requirements for water quality, temperature, flows, and oxygen content. Policies and regulations for aquaculture, therefore, recognize the necessity for some latitude in the development of this emerging economic water use, as well as its potential impact on existing uses and natural systems.

A. Aquaculture is a preferred water-dependent use, but may be permitted only if impacts to ecological resources and existing land uses can be mitigated. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new nonnative species which cause significant ecological impacts.

B. Aquaculture activities shall be located so as to not unduly restrict navigation.

C. Aquaculture structures shall be placed in such a manner as to minimize interference with, or danger to, surface navigation, and so as not to impair the aesthetic quality of the shorelines.

D. Aquaculture development shall make reasonable provisions to control nuisance factors such as excessive noise or odor.

E. Aquaculture wastes shall be disposed of in a manner that will prevent degradation of associated upland, wetland, shoreline, or water environments.

F. Aquaculture activities shall make all feasible provisions to maintain the general aesthetic quality of the shoreline.

**26.30.040 Commercial development.**
Shoreline commercial uses, including offices, restaurants, general retail sales, hotels, motels and convention centers, are recognized as being most suitable in the waterfront environment already developed at urban intensities. Policies and regulations for these uses encourage developments having a functional dependency on shoreline location and water orientation, and which afford maximum public access, use, and circulation along the waterfront.

A. Commercial development in shoreline areas shall be designed, located, and constructed to achieve no net loss of ecological functions.

B. Preference shall be given to water-dependent commercial uses over non-water-dependent commercial uses. Water-related uses shall be given priority over non-water-related uses.

C. Commercial development that is not water-dependent shall not be allowed over water except where it is located within the same building and is accessory to and necessary for a water-dependent use.

D. Non-water-oriented commercial development shall be allowed only when:

1. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access and/or ecological restoration; or

2. Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access and/or ecological restoration.

E. In areas of the shoreline designated for commercial use, non-water-oriented commercial uses may be allowed on sites physically separated from the shoreline by another property in separate ownership or public road right-of-way.

F. Uses within the waterfront environment shall be designed to provide multiple uses that enhance cultural and related commercial facilities to enhance and diversify the public's experience of the shoreline, including tourists, by providing water-oriented and enjoyment uses and community recreational resources and providing public access and view corridors. Uses in this area must meet the following additional criteria:

1. Development is subject to Chapter 23.48 RMC, Site Plan Review, as adopted or subsequently amended.

2. Public open space for public access and to accommodate water-enjoyment uses and other uses allowing public visual access to the waterfront, such as restaurants, is a preferred use and may earn bonus floor area in buildings between 35 and 55 feet in height, subject to the following criteria:

a. Public open space in excess of 15 percent of the area of shoreline jurisdiction on a site may earn one square foot of building floor area for each square foot of open space, up to 20,000 square feet, provided the following criteria are met:

i. The open space area must abut the Riverside Trail on at least half its total width;

ii. The open space must be at the elevation of the Trail;

iii. The open space may extend no further than 50 feet from the edge of the Trail;

iv. The open space must be accessible to the public at all times;

v. The open space must consist of grass turf or other surface that will accommodate pedestrian foot traffic;

vi. At least one bench or table with chairs open to the public must be provided for every 2,000 square feet of open space; and

vii. Planting areas for ornamental vegetation not allowing foot traffic are excluded from the area qualifying for bonus floor area.

b. Public open space plazas may earn additional bonus floor area, of four square feet of building floor area for each square foot of open space, up to 10,000 square feet, in addition to any area earned by subsection (F)(2)(a) of this section, if the facility meets the following criteria:

i. The open space area must abut the Waterfront Trail on at least 20 percent of its total perimeter;

ii. The open space must be at the elevation of the Trail;

iii. The open space may extend no further than 75 feet from the edge of the Trail;

iv. The open space must be accessible to the public at all times;

v. The open space must consist of a hard surface of concrete, brick, pavers, or similar materials. Permeable surfaces are encouraged to the extent feasible;

vi. Shade shall be required by trees planted in grates at grade level allowing pedestrian passage over grates at a minimum ratio of one tree per 1,600 square feet of plaza area;

vii. At least one bench or table with chairs open to the public must be provided for every 2,000 square feet of open space;

viii. The open space must be abutted by building frontage at the same elevation as the plaza, and with ground floor clear vision glass and door access at a spacing of no less than 50 feet on at least 50 percent of its total perimeter;

ix. At least 50 percent of the building perimeter must be retail or restaurant use; and

x. Planting areas for ornamental vegetation at the perimeter of the plaza in areas without clear glass building frontage may be allowed on up to 10 percent of the plaza area if the beds of such landscaping are within 18 inches of the plaza elevation.

xi. Additional bonus area of two square feet of building floor area for each square foot of open space, up to 2,000 square feet in addition to any area earned by the provisions above, may be earned by dedication of an area of outside seating at a restaurant, coffee shop, or similar use. Up to 50 percent of the qualifying bonus area may be devoted to sale of liquor.

c. The administrator may allow interim use of retail or restaurant building frontage for office or other compatible use if the building owner documents a good faith effort to procure retail or restaurant tenants. Such interim use may be approved for a period of up to three years, and may be renewed upon demonstration of meeting the same criteria.

3. Public view corridors that provide the public with an unobstructed view of the water from adjacent public streets to the Columbia River shall be provided in the waterfront environment subject to the following criteria:

a. View corridors shall extend from the public street providing access to the site and shall extend to the water's edge.

b. Preferred locations for view corridors are along property lines.

c. Width of view corridors shall be determined based on the potential for providing views in new development and redevelopment, and shall be based on topography, parcel size, and effects on development potential.

d. Development and uses within view corridors shall be limited to prevent obstruction of the corridor.

e. Establishment of a view corridor shall not allow for clearing or removal of ~~shoreline buffer~~ vegetation required in buffers as provided in critical area regulations.

f. View corridors shall be recorded as an easement in accordance with the provisions of RMC 26.20.050, Public access.

**26.30.050 Industrial development and port facilities.**
Policies and regulations for ports and water-associated industrial development are intended to accommodate the particular dependence of those uses on shoreline siting, and to ensure that development occurs in a manner that maximizes compatibility with the water and shoreline resources.

A. The area of industrial use designated in this program which is accessible to navigable water is the Port of Benton site in north Richland. This program provides for continued operation of barging facilities, and may permit additional water-dependent use directly related to transfer of materials from waterborne conveyance to the land. The portions of the site not used for said water-dependent use shall preserve the generally undeveloped nature of adjacent shoreline areas. Public access shall be provided through the shoreline portion of the site for use when it does not interfere with barge loading or unloading. An alternative route to the west shall be provided for conducting nonmotorized traffic around the site when water-dependent use interrupts transit on the Trail.

B. Industrial and port development shall be located, designed, constructed, and operated in a manner that minimizes impacts to shoreline resources and avoids unnecessary interference with shoreline use by adjacent property owners.

C. Cooperative use of existing port facilities, including docks and piers, shall be encouraged to reduce additional disruption to the shoreline.

**26.30.060 Marinas.**
Marinas are recognized as a use dependent on waterfront location and generally requiring shoreline modification for construction and operation. Marina activities may include facilities for boat launching, moorage, storage, and servicing as well as boat and accessories sales and display and restaurant facilities.

A. These provisions apply to all vessel moorage facilities serving five or more vessels.

B. Proposals for new marinas must provide sufficient evidence that existing public boat launches, dry storage and existing and permitted moorage are not adequate to meet regional demand for recreational boating and that development of new marinas would result in fewer environmental impacts than expansion of existing facilities.

C. In order to protect shoreline ecological functions, efficiently use shoreline space, and minimize consumption of water surfaces, boat facilities, in order of preference, are as follows:

1. Mooring buoys with a small lighter dock to provide access to the buoy.

2. In-water mooring docks. These may be approved only where it is demonstrated that more preferred options are not feasible, and/or it can be demonstrated that in-water mooring docks would result in fewer impacts to shoreline ecological functions and/or enhance public use of the shoreline.

D. Applications for marinas with in-water moorage may be approved by a shoreline special use permit if it is demonstrated that:

1. Public navigation will not be impeded.

2. The location will not result in displacement of wetlands or interrupt natural processes, erosion or deposition.

3. Water depths will be adequate without initial or maintenance dredging.

4. The location will not require shoreline armoring to compensate for fluvial processes.

5. The location will not reduce existing public use of the water or shoreline, including fishing, swimming, and boating.

6. Adverse water quality impacts will not result from inadequate flushing of moorage or enclosed water areas.

7. Impacts to riparian buffers and nearshore aquatic habitat will be minimized. Impact minimization may require provision of ~~upland buffers~~ buffers established upland, with limited corridors for movement between upland and in-water facilities.

8. Setbacks from adjacent noncommercial properties will be adequate to attenuate proximity impacts such as noise and light and glare, and may address scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.

9. Facilities including piers, floats, boat launches and other elements will be located and designed to minimize changes in hydraulic and fluvial processes, minimize potential flood hazards, and to not limit channel migration in areas where such processes are not currently constrained.

10. Exterior lighting will avoid illuminating nearby properties used for noncommercial purposes and to prevent hazards for public traffic. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, and screening.

11. Exterior lighting will not adversely impact aquatic species.

12. Adequate provisions are made for restroom, sewage, and solid waste disposal facilities in compliance with applicable health regulations.

13. Access and parking shall not produce traffic hazards, shall not result in excessive noise or other impacts, and shall minimize traffic impacts on nearby streets.

14. On-site parking supply shall be adequate to meet peak demands. Location of parking shall be in accordance with parking standards in this program.

E. Covered moorage is prohibited.

F. Marinas shall provide public access amenities over public aquatic lands equivalent to a minimum 10 percent of over-water coverage, shall provide public walkway access to a public street, and may be required to provide public parking, including ADA access.

G. If a marina includes gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazard, and to facilitate fire and pollution control. Fail safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan, shall be required of new marinas and expansion or substantial alteration of existing marinas. Handling of fuels, chemicals, or other toxic materials must be in compliance with all applicable federal and state water quality laws as well as health, safety, and engineering requirements. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

H. Live-aboard vessels may occupy up to 10 percent of the slips at a marina and shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility. Accommodation of additional live-aboard vessels may be approved only by a shoreline special use permit with demonstration that accommodation of live-aboard vessels will not displace moorage otherwise available for recreational use or lead to a demand for additional moorage facilities.

**26.30.070 Mining.**
Surface mining is the removal of rock, sand, gravel, and/or minerals from shoreline areas for economic purposes. Excavations are permitted in accordance with the Washington State Surface Mining Act and with RMC 23.42.070.

A. The location, design, and development of any mining operation shall include:

1. Demonstration that mining is dependent on a shoreline location based on evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, as well as evaluation of need for such mineral resources, economic, transportation, and land use factors.

2. Assurance of no net loss of ecological functions and processes. Application of this standard shall include avoidance and mitigation of adverse impacts during operation and evaluation of the reclamation plan required for the site.

3. Allowance of mining on shorelines shall require a finding that the benefits from mining, including the long-term use of the site, outweigh adverse impacts on other users or resources taken together.

4. Avoidance of interference with public recreation on the shoreline.

5. Location and operation to provide long-term protection of water quality, fish and wildlife, and their habitats.

B. A reclamation plan shall be submitted with each application per RMC 23.42.070(E), and shall provide for reclamation of the site compatible with existing and proposed land use as indicated in ~~RMC 23.42.070(E)~~the Richland comprehensive plan and with the shoreline environment designation. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species and/or public access and recreation.

C. Regulations applicable to the shoreline environment in which the proposed development is located shall be complied with.

**26.30.080 Recreation.**
Recreation is ~~the refreshment of strength and spirits through activities involving physical participation or passive relaxation~~ an activity done for enjoyment when one is not working. Water-related recreation accounts for a significant percentage of all recreational activities in the city of Richland and the state of Washington. Recreational activities intended for public use shall be encouraged at intensities appropriate for the various environments. Priority will be given to those recreational uses which provide appropriate public access to the shoreline.

A. Only those ~~public and private~~ recreational uses that allow general public use shall be permitted on public shorelines of Richland. Recreational development shall be designed to locate non-water-oriented uses upland of water-oriented uses whenever possible.

B. A variety of recreation opportunities and associated facilities are encouraged on the shoreline. Passive uses are most appropriate in areas with more intact natural conditions, including facilities for interpretation of natural features and habitat, bird watching and similar uses. Water-dependent and water-enjoyment recreation facilities are a preferred use, including boating facilities, water sports, angling, and swimming beaches for areas with less intact ecological functions.

C. Access, circulation, and parking for recreational developments shall comply with the following regulations:

1. Vehicular access points shall be limited to the minimum number necessary for the proposed recreational facility, and shall be configured to minimize disturbance of ~~sensitive~~ critical natural resources. Nonmotorized access points shall be provided where feasible.

2. Access to the water's edge from parking areas shall be limited to pedestrian movement, except that marinas and boat launching facilities may be provided with access drives or roads.

3. Circulation within recreational areas shall, as appropriate, include provisions for ~~all~~ various modes of transportation. Roadways for motorized vehicles shall be designed and located to take advantage of scenic views, vistas, and points of interest ~~in nonsensitive~~non-critical ~~areas~~outside of critical areas, and shall be designed and constructed with consideration of, and sensitivity for, natural features and amenities of the shorelines.

4. Access and circulation shall conform to provisions for road and railroad design and construction as set forth in RMC 26.30.100.

5. Parking areas shall be located on the ~~inland~~ landward side of all buildings, structures, and recreational uses, and shall be developed in accordance with applicable city of Richland parking and landscaping standards.

D. Development plans shall include provisions for the protection and preservation of ecological functions, natural resources, and scenic views and vistas of the shoreline.

E. Recreational facilities shall be designed, constructed, and operated in a manner consistent with the intent of the shoreline environment in which they are located, and which does not result in a net loss of shoreline ecological functions.

F. Applications for recreational uses that require the use of fertilizers, pesticides, or other chemical treatments shall include plans demonstrating best management practices to be used to minimize the potential for contamination of surface water and ground water resources. Nonchemical methods of vegetation management shall be preferred wherever feasible.

G. New over-water structures for recreation use shall be allowed only when:

1. They accommodate water-dependent recreation uses or facilities; or

2. They allow opportunities for substantial numbers of people to enjoy the shorelines of the state; and

3. They are not located in or adjacent to areas of ecological sensitivity, especially aquatic and wildlife ~~habitat areas~~habitat conservation areas; and

4. No net loss of ecological functions will be achieved.

H. Private recreation uses and facilities that utilize public aquatic lands shall provide public access as provided in RMC 26.20.050, or shall provide improved, compensating public access at other locations.

I. Motorized vehicular use outside of designated roadways and driveways, including the use of all-terrain and off-road vehicles, in the shoreline area is prohibited, except for boat launching and maintenance activities, and except where specific areas for such use are set aside and controlled by a public entity.

J. In natural open space areas, the need for trails for ADA access should be balanced with the extent of alteration of the natural environment required to accommodate such facilities.

K. Recreational developments shall comply with all local and state health regulations.

**26.30.090 Residential development.**
Policies and regulations for residential development are intended to promote use of the shoreline that acknowledges existing residential patterns and allows residential utilization of shoreline areas without resulting in a net loss of ecological function.

A. Single-family residential development is a priority use on the shoreline when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

B. Residential development in the shoreline shall meet the criteria of no net loss of ecological functions in RMC 26.20.020 and the preferred sequence for mitigation of impacts shall be used. The use shall be located and designed to maintain required buffers, and maintain or enhance shoreline ecological functions including shoreline geomorphic processes, water quality, fish and wildlife habitat, and the aquatic food chain in general.

C. New residential development shall cluster dwelling units to provide as little alteration to the natural environment as feasible, and shall utilize low impact development (LID) techniques to reduce physical and visual impacts on shorelines.

D. Multifamily residential use is not a priority for location on the shoreline under the Shoreline Management Act and is subject to the preference for water-dependent and water-oriented use. It therefore must meet requirements for providing public benefit through ecological restoration and public access. Multifamily development may not be approved if it displaces existing water-dependent uses. Multifamily development uses

may be permitted only where it provides significant public benefit with respect to the objectives of the Act by:

1. Restoration of ecological functions, both in aquatic and upland environments, that shall provide native vegetation ~~buffers~~ according to the standards provided for ~~sensitive~~ critical areas or in accordance with the ~~restoration element of this program~~City of Richland Shoreline Restoration and Protection Plan; and

2. Provision of public access is required in accordance with RMC 26.20.050.

E. Over-water residences are prohibited.

F. New residential development shall assure that the development will not require shoreline stabilization. Prior to approval, geotechnical analysis of the site and shoreline characteristics shall demonstrate that shoreline stabilization is unlikely to be necessary, setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, and riparian erosion areas shall be sufficient to protect structures during the life of the lots, and impacts to adjacent, downslope, or down-current properties are not likely to occur during the life of lots created.

G. New residential development shall meet all ~~sensitive~~ critical area provisions of this program. Filling of, or into, water bodies or their associated wetlands for the purpose of subdivision or multifamily construction shall not be permitted. New subdivisions, short plats, and large lots shall preserve the required buffer in a protective tract, public or private land trust dedication, or be similarly preserved through an appropriate permanent protective mechanism. Each lot owner within the subdivision, short plat, or other land division shall have an undivided interest in the tract(s) or protective mechanism created.

H. Residential developments, including subdivisions, and planned unit developments of five or more lots/units shall provide improved public access for all residents of the development and the general public, in compliance with public access standards contained in RMC 26.20.050.

I. All new divisions of land shall record a prohibition on new private individual docks on the face of the plat. An area reserved for shared moorage may be designated if it meets all requirements of this program.

J. All development shall be in compliance with all codes and ordinances of the city of Richland, including applicable subdivision, ~~sensitive~~ critical area and zoning regulations.

**26.30.100 Transportation facilities.**

A. Roads and Bridges.

1. Development of new roads or substantially expanded existing roads shall demonstrate the need for a shoreline location and that no feasible upland alternative outside the shoreline is available.

2. Roads shall cross shoreline areas by the shortest, most direct route feasible to minimize impacts, unless such route would cause significant adverse impacts based on specific local features.

3. The project configuration, design, and related features will minimize alteration of ~~sensitive~~ critical area buffers, avoid impacts on bird and wildlife movement as much as is feasible, fit the existing topography as much as feasible, and minimize alterations to the natural or existing vegetation.

4. New transportation facilities shall be located and designed to avoid the need for shoreline stabilization where feasible. Where demonstrated to be necessary to protect an existing facility that is in imminent danger of loss or substantial damage, new or expanded structural shore stabilization shall provide mitigation of impacts resulting in no net loss of shoreline ecological functions. In cases where substantial shore stabilization is required, relocation of roads further from the shoreline may be required.

5. New or expanded roads will provide public access in accordance with RMC 26.20.050 and, where they afford scenic vistas, pedestrian viewpoints will be provided.

6. Wetlands shall be avoided whenever feasible. If avoidance is not feasible, bridges shall be utilized when crossing wetlands to avoid obstructing movement of surface and ground water unless it can be demonstrated that fill and compensatory mitigation will produce equal or greater ecological functions.

7. Road crossings of streams shall utilize bridges rather than culverts to the maximum extent feasible.

8. Private access roads or driveways providing ingress and egress for individual single-family residences or lots shall be limited to the minimum allowed by the fire code.

9. Bridges shall be designed and built of sufficient lateral and vertical clearance to allow the unimpeded passage of flood flows and debris. In wide streamways, bridges shall employ the maximum length of clear spans feasible with pier supports that produce the minimum deflection feasible. Bridge approaches in floodways of any stream shall be constructed on open piling or other measures to allow free water movement.

10. Landscape planting is required along all shoreline roads, parking, and turnout facilities to:

a. Provide buffers between pedestrian and auto users;

b. Enhance the shoreline driving experience; and

c. Enhance and complement potential views of shoreline areas.

11. The city shall not vacate any public right-of-way in a shoreline location until adopting a comprehensive public access plan for the area showing that the subject right-of-way cannot be used as a contributing element in that plan. The city shall vacate a public right-of-way abutting a body of water only in compliance with RCW 35.79.035~~, which allows vacations of streets abutting bodies of water only when:~~

~~a. The vacation will enable acquisition of the property for public purposes;~~

~~b. The street or alley is not suitable for certain purposes (e.g., port, park, education); or~~

~~c. The vacation will enable implementation of a public access plan~~.

12. In order to improve public access to the shoreline, the city shall acquire and/or retain abandoned or unused road or railroad rights-of-way for public access to and/or along the water.

B. Nonmotorized Facilities.

1. Nonmotorized facilities shall comply with provision for public access facilities in RMC 26.20.050.

2. Trails shall be developed consistent with adopted city and regional system plans.

3. Nonmotorized facilities shall avoid ~~sensitive~~ critical areas ~~features of the shoreline~~ to the extent feasible, including wetlands and fish and wildlife habitat conservation areas. Facilities shall be placed outside of or in the outer portions of buffers. Elevated walkways shall be utilized where feasible to cross wetlands and streams.

C. Railroads.

1. Railroad improvement requiring right-of-way expansion within the shoreline shall demonstrate that there is no feasible alternative outside of shoreline jurisdiction.

2. Expansion of existing railroad facilities within existing rights-of-way (additional track or other features) must demonstrate the need for a shoreline location and that no feasible upland alternative outside shoreline jurisdiction is feasible. New tracks shall be placed upland of existing tracks if feasible and may require relocation of existing tracks.

3. The project shall be designed to minimize alteration of ~~sensitive~~ critical area buffers, to fit the existing topography as much as feasible, and to minimize alterations to the natural or existing topography.

4. Wetlands shall be avoided whenever feasible. Bridges shall be utilized when crossing wetlands to avoid obstructing movement of surface and ground water unless it can be demonstrated that fill and compensatory mitigation will produce equal or greater ecological functions.

5. Trails and shoreline access should be provided with facilities to safely cross railroads, to enhance regional nonmotorized circulation, and improve public access to the shoreline. Any proposal to add tracks to an existing corridor shall include additional crossings of the rail corridor to make a proportional contribution to meeting an ultimate goal of at least one crossing every 2,500 feet.

6. Criteria for road crossings of streams and shoreline stabilization shall apply to railroads.

D. Parking.

1. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Parking facilities shall be located outside shoreline jurisdiction where possible. Parking in shoreline jurisdiction shall directly serve a permitted shoreline use and shall be located outside of ~~sensitive~~ critical area buffers and as far from the water/land interface as possible.

2. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served. The only exceptions to this would be when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline and in all cases is prohibited over the water.

3. Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping shall comply with Chapter 23.54 RMC and, in addition, landscaping between parking areas and public access shall provide effective screening within three years of project completion.

**26.30.110 Utilities.**

A. New or substantially expanded utilities serving uses within the city may be located within shoreline jurisdiction only if:

1. The facility is needed within the shoreline jurisdiction to support permitted shoreline activities; and

2. No feasible upland alternative exists based on analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or is set back further from the land/water interface.

B. Regional facilities that serve uses outside the city and all electric transmission facilities with a capacity greater than 50 kW shall demonstrate, based on an analysis of alternative routes and technology, that:

1. No upland alternative route is feasible;

2. Utilization of existing corridors is not feasible, including expansion or replacement of existing facilities, if new corridors are proposed;

3. A location within designated industrial environments or existing transportation corridors is not feasible;

4. The proposal has the least ~~feasible~~ adverse impact on the natural environment which is feasible; and

5. The location and design of the facility has the least ~~feasible~~ change in the existing character of the shoreline views enjoyed by residences or from public access facilities as is feasible, and will not obstruct scenic vistas.

C. Linear facilities consisting of pipelines, sewers, cables and other facilities roughly parallel to the shoreline shall be discouraged except where no other feasible alternative exists. At the time of replacement of such facilities that are close to their lifespan, or when such facilities are expanded, relocation outside of the shoreline may be required as if they were new facilities. When permitted, design shall assure that maintenance of the facilities does not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

D. Utilities shall be located in the least ~~sensitive~~ environmentally sensitive portions of a site and outside of natural open space areas, where feasible, and be designed to minimize environmental impact, avoid significant natural, historic, archaeological, or cultural sites to the maximum extent feasible, and mitigate unavoidable impacts.

E. Utilities, where permitted, shall meet the following design criteria:

1. Facilities should occupy as little of the shoreline as feasible and should be located in existing rights-of-way and, if possible, should share existing facilities where feasible. Utility installation parallel to the shoreline should be avoided to the maximum extent feasible. Utilities shall cross the shoreline area by the shortest, most direct route, unless such route would cause substantial significant environmental damage.

2. Utilities shall be located and designed to minimize alterations to the natural environment, be located outside of natural open space areas, where feasible, and fit the existing topography as much as possible, and should be designed to minimize and mitigate environmental impact.

3. Facilities shall be located and designed to minimize introducing elements that change the existing character of the shoreline, obstruct views enjoyed by residences or from public access facilities, or obstruct scenic vistas.

4. Utility crossings of water bodies shall be attached to bridges or located in other existing facilities, if feasible. If new installations are required to cross water bodies or wetlands, they should avoid disturbing banks and streambeds, and shall be designed to avoid the need for shoreline stabilization. Crossings shall be tunneled or bored where feasible. Installations shall be deep enough to avoid failures or need for protection due to exposure due to stream bed mobilization, aggregation, or lateral migration. Underwater utilities shall be placed in a sleeve if feasible to avoid the need for excavation in the event of the need for maintenance or replacement.

F. New electrical distribution lines within the shoreline shall be placed underground. Distribution lines that cross water or other ~~sensitive~~ critical areas may be allowed to be placed above ground if:

1. Underground installation would substantially disrupt ecological functions and processes of water bodies and wetlands, and horizontal drilling or similar technology that does not disturb the surface is not feasible;

2. Visual impacts are minimized to the extent feasible; and

3. If overhead facilities require that native trees and other vegetation in a ~~sensitive~~ critical areas buffer cannot be maintained in a natural condition, compensatory mitigation shall be provided on or off site.

G. Stormwater, wastewater, or water supply pump stations, and stormwater discharge facilities such as dispersion trenches, level spreaders, and outfalls may be located in the shoreline jurisdiction if:

1. Due to topographic or other physical constraints there are no feasible locations for these facilities outside the shoreline;

2. The facility minimizes and compensates for impacts to ~~sensitive~~ critical area buffers; and

3. Any discharge facility is designed and maintained to prevent erosion or other adverse impacts.

H. Construction shall be designed to protect the shoreline against erosion, uncontrolled or polluting drainage and other factors detrimental to the environment, both during and after construction.

I. Roadways or other facilities to access utility installations within ~~sensitive~~ critical area buffers shall be no wider than needed to construct, maintain, or repair the utility.

J. Facilities involving buildings~~,~~ such as pump stations, electrical substations, or other facilities~~, when permitted,~~ shall be in scale with surrounding development, architecturally compatible and landscaped to assure compatibility with natural features, public access facilities, and adjacent uses.

K. Public Access. Utility development shall provide for compatible, multiple uses of sites and rights-of-way through coordination with local government agencies. Such uses include shoreline access in accordance with RMC 26.20.050, trail systems, and other forms of recreation and transportation, provided such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

# Chapter 26.40
# SHORELINE MODIFICATION REGULATIONS

Sections:

26.40.010 Shoreline stabilization.
26.40.020 Breakwaters, jetties, and groins.
26.40.030 Flood hazard management.
26.40.040 Clearing and grading.
26.40.050 Dredging and dredge material disposal.
26.40.060 In-stream structures.

## 26.40.010 Shoreline stabilization.

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

A. New development, including subdivision, shall be located and designed to avoid the need for future shoreline stabilization to the maximum extent feasible. New lots created by subdivision shall not require shoreline stabilization in order for reasonable development to occur. New development on steep slopes shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure. Proposed development that would require shoreline stabilization which would cause significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed. In all cases, compliance with this criterion shall be documented by geotechnical analysis by qualified professionals.

B. The construction of shoreline protection measures for the primary purpose of retaining or creating dry land ~~that is not specifically authorized as a part of the permit~~ is prohibited unless specifically authorized as a part of a permit.

C. Shoreline stabilization shall be designed and constructed to avoid stream channel direction modification, realignment and straightening, or result in increased channelization of normal stream flows.

D. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by natural processes rather than from upland conditions such as poorly managed stormwater or vegetation removal. Normal sloughing, erosion of steep bluffs, 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 problems away from the shoreline edge before considering structural shoreline stabilization. The erosion control structure shall not result in a net loss of shoreline ecological functions.

E. Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:

1. No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.

2. Stabilization constructed of natural materials incorporating measures such as soft-shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.

3. Soft-shore stabilization, as described above, in combination with rigid works, as described below, constructed as a protective measure.

4. Rigid works constructed of artificial materials such as riprap or concrete.

F. Shoreline stabilization may be permitted to protect a water-dependent development, or single-family residences, when all of the following conditions ~~below~~ have been demonstrated to apply and are documented by a report by a qualified professional:

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

2. 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;

3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report; and

4. The stabilization structure shall not result in a net loss of shoreline ecological functions.

5. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.

G. Shoreline stabilization may be permitted to protect an existing non-water-dependent development when all of the following conditions ~~below~~ are met as documented by a report by a qualified professional:

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

2. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient;

3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report;

4. The affected structure cannot be feasibly located or relocated outside of the area affected by natural shoreline erosion processes; and

5. The stabilization structure will not result in a net loss of shoreline ecological functions.

6. Where a geotechnical analysis confirms a need to prevent potential damage, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.

H. Shoreline protection for the restoration of ecological functions or hazardous substance remediation projects pursuant to ~~Chapter 70.105D RCW~~ Chapter 70A.305 shall meet the following conditions ~~below~~ and be documented by a qualified professional:

1. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient; and

2. The erosion control structure will not result in a net loss of shoreline ecological functions.

I. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures, or public facilities (e.g., roads, bridges, railways, and utility systems) from erosion caused by stream undercutting or wave action. The existing shoreline stabilization structure must be removed from the shoreline as part of the replacement activity. The following conditions must be met and documented by a qualified professional:

1. There is a demonstrated need to protect principal uses or structures from erosion caused by stream geohydraulic processes.

2. The replacement structure is designed, located, sized, and constructed to assure no net loss of ecological functions.

3. 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 overriding safety or environmental concerns exist. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

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

5. For purposes of this subsection, “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.

J. A publicly funded shoreline stabilization project shall include appropriate provisions for public access to the shoreline, not create barriers to public access if in existence, and incorporate ecological restoration measures if feasible.

K. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.

**26.40.020 Breakwaters, jetties, and groins.**

A. Breakwaters, jetties, rock weirs, and groins shall only be permitted by a shoreline special use permit for navigational purposes, water-dependent uses, and marinas where water-dependent uses are located waterward of the OHWM, and where protection from strong wave action is essential.

B. Breakwaters, jetties, rock weirs, and groins may be approved only if analysis by a qualified professional demonstrates that erosion and accretion processes, riparian habitat, channel migration, and floodplain functions will not be adversely affected or are mitigated by a specific program implemented over the lifespan of the effect.

C. The design of new breakwaters, groins, and jetties shall incorporate provisions for public access and public fishing if such access is feasible and safe.

**26.40.030 Flood hazard management.**

A. New or substantially altered structural flood hazard reduction measures, such as dikes, levees, berms and similar flood control structures, shall be consistent with basin-wide flood control strategies in regional flood hazard management plans.

B. Flood control structures shall be permitted for the following purposes only, as documented through a geotechnical or geofluvial analysis: ~~:~~

1. They are necessary to protect existing development.

2. Nonstructural flood hazard reduction measures are infeasible.

3. Impacts to ecological processes and functions, priority fish and wildlife species and habitats, and the aquatic food chain can be successfully mitigated to assure no net loss of ecological functions.

4. Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.

C. Public access shall be provided in accordance with public access policies and ~~regulations of~~ RMC 26.20.050. If the project is publicly funded, the design must provide appropriate public access to the shoreline, improve public access to the shoreline, and provide ecological restoration where feasible.

D. Dike and levee design shall, to the maximum extent feasible, be:

1. Limited in size to the minimum height required to protect adjacent lands from the predicted flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification;

2. Placed landward of fish and wildlife habitat conservation areas and wetland buffers unless there is no other feasible alternative to reduce flood hazard to existing development;

3. Located and designed so as to protect and restore the natural character of the stream, avoid the disruption of channel integrity, and provide the maximum opportunity for natural floodway functions to take place. Design must consider including levee setbacks to allow for more natural function of floodplains, channel migration zones, off channel habitat and associated wetlands directly interrelated and interdependent with the stream; and

4. Designed to incorporate appropriate vegetation management.

E. All flood protection measures shall demonstrate that downstream flooding will not be increased and the integrity of downstream ecological functions will not be adversely affected, including disruption of natural drainage flows and stormwater runoff.

F. Removal of materials from the river channel for flood management purposes may be allowed only as part of an adopted integrated flood control management program, and after biological and geomorphological study demonstrates that other flood hazard reduction strategies would not be effective in the absence of gravel removal. Specific studies accompanying the application must demonstrate that adverse flooding, erosion, or other environmental impacts either upstream or downstream of extraction sites would not occur or would be mitigated, including analysis of the natural processes of gravel transportation for the river system as a whole.

**26.40.040 Clearing and grading.**

A. Clearing and grading activities in shoreline areas shall be allowed only in association with a permitted shoreline development, and shall be limited to the minimum extent necessary to accommodate shoreline development. Clearing and grading shall retain natural features and functions, including natural topography, to the maximum extent feasible.

B. Fill is restricted in wetlands or fish and wildlife habitat conservation areas in accordance with ~~sensitive~~ critical areas regulations.

C. Fill may not be placed in floodways. Fill may be placed in other ~~flood hazard areas~~ frequently flooded areas only where it is demonstrated that adverse impacts to hydrogeologic processes will be avoided and the provisions of Chapter 26.60 RMC are met.

D. Fill below, or waterward, of the ordinary high water mark for any use except ecological restoration requires a shoreline special use permit. Fill may be placed below the OHWM only when it is demonstrated as necessary to:

1. Accomplish an aquatic habitat restoration plan;

2. Correct the adverse results of past shoreline modification that has disrupted natural stream geomorphic conditions and adversely affected aquatic or terrestrial habitat;

3. Provide for clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan;

4. Expand or alter transportation facilities of statewide significance currently located on the shoreline, and then only upon a demonstration that alternatives to fill are not feasible; or

5. Create water-dependent recreational facilities open to the public.

**26.40.050 Dredging and dredge material disposal.**

A. Dredging shall be permitted only:

1. For flood control purposes, as part of an adopted regional flood control plan;

2. In conjunction with a water-dependent use of water bodies or adjacent shorelands where channel modification is essential to the water-dependent use;

3. As part of an approved habitat improvement project; or

4. In conjunction with a bridge, navigational structure, water, or wastewater treatment facility for which there is a documented public need and where other ~~feasible~~ sites or methods are not feasible.

B. New dredging shall be permitted only where it is demonstrated by a report prepared by a qualified professional that it will avoid adverse impacts to water quality, fish and wildlife habitat conservation areas and other ~~sensitive~~ critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of ecological functions.

C. New development siting and design should avoid the need for new and maintenance dredging.

D. During a low water season, removal of a portion of an accretion point bar below the OHWM but above the water level at the time of operation may be permitted as a special use for flood control purposes as follows:

1. It is identified as an element of an adopted integrated flood control management program that demonstrates that other flood hazard reduction strategies would not be effective in the absence of material removal, and is in accordance with RMC 26.40.030(F).

2. Specific studies accompanying the application must demonstrate that adverse flooding, erosion, or other environmental impacts would not occur or would be

mitigated either upstream or downstream of extraction sites, including the natural processes of gravel transportation for the river system as a whole.

E. Dredge material disposal shall be permitted only at locations where it is demonstrated by analysis by a qualified professional that the disposal will not result in significant or ongoing adverse impacts to water quality, ~~sensitive~~ critical areas, flood holding capacity, natural drainage and water circulation patterns, prime agricultural land, or public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of ecological functions.

F. Disposal of dredge material within fish and wildlife habitat conservation areas (FWHCA), wetlands, within a floodplain or within a river's channel migration zone shall be allowed only where alternative disposal sites are not feasible. In the limited instances where it is allowed, such disposal shall require a shoreline special use permit. Applicants shall demonstrate that:

1. The proposed dredge materials disposal site is subject to an allowed use under this program that:

a. Is an element of an approved restoration plan for aquatic or upland fish and wildlife habitat;

b. Will create, expand, rehabilitate, or enhance a beach that provides public recreation opportunities that is permitted under this program;

c. If on private land, the site will ultimately be suitable for a use permitted by this program or will be subject to buffer or other open space restrictions; and

d. Will affect the smallest feasible land.

2. Sites will be adequately screened from view of local residents or passersby on public rights-of-way to the maximum extent practicable (e.g., a combination of fencing and vegetation).

3. Sites will be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other ~~sensitive~~ critical areas functions.

4. Shoreline ecological functions and processes will be preserved, including protection of riparian buffers and surface and ground water.

**26.40.060 In-stream structures.**

A. In-stream structures may be allowed only when the public benefits of such facilities clearly outweigh any loss of ecological processes and functions, and only when an analysis of alternatives demonstrates that the proposed location and design would result in less adverse impact than alternative locations and designs.

B. In-stream structures may be approved only for:

1. Water-dependent use where the in-stream structure is essential to operation of the use.

2. A project that has received Governor's certification pursuant to Chapter 80.50 RCW, Energy Facility Siting.

3. A project that has received approval and licensing by the Federal Energy Regulatory Commission.

4. Projects that are part of an approved irrigation district plan or are private or corporate irrigation facilities approved by the Washington Department of Fish and Wildlife.

5. A fish or wildlife habitat restoration project approved by the Washington Department of Fish and Wildlife.

C. All applications for in-stream structures shall demonstrate that they result in no net loss of ecological functions, and ~~applications~~ shall detail all mitigation measures, include detailed mitigation plans, timetables for implementation, and a monitoring program.

D. In-stream structures and their support facilities shall be located and designed to minimize the need for shoreline defense structures. When shoreline defense structures are demonstrated as necessary, they shall be approved in accordance with RMC 26.40.010, Shoreline stabilization.

E. In-stream structures and associated facilities shall be designed and constructed to avoid, and where avoidance is not feasible shall mitigate, adverse land use impacts~~,~~ including impacts to public access facilities, publicly owned lands or waters used for recreation, and public and private recreation facilities. Impacts to be avoided include the visual impact of the structure or facilities, the intrusion of roads or utility corridors into undeveloped area used for recreation, noise, and impacts from reduced water flows.

F. In-stream structures shall be designed and constructed to provide public access to and along the shoreline in accordance with the public access policies and regulations contained in RMC 26.20.050. Existing public access and recreational opportunities should be retained, enhanced, or replaced.

## Chapter 26.50
## PERMIT ADMINISTRATION AND ENFORCEMENT

Sections:


26.50.001 Administrator.
26.50.010 Permit requirements.
26.50.011 Coordination with other agencies.
26.50.012 Development compliance.
26.50.020 Exemptions from shoreline substantial development permit.
26.50.021 ~~Exemption procedures.~~ ~~Exemptions~~Exceptions to local review.
26.50.025 Exemption procedures.
26.50.030 Shoreline permit application procedures.
26.50.040 Approval criteria.
26.50.050 Shoreline Special use permit.
26.50.060 Shoreline Variances.
26.50.070 Time requirements for shoreline permits.
26.50.080 Land division.
26.50.090 Construction permit compliance.
26.50.100 Rulings to state.
26.50.110 Appeals.
26.50.120 Rescission of permits.
26.50.121 Violations – Penalties.
26.50.140 Restoration project relocation of OHWM.
26.50.150 Shoreline moratorium.
26.50.160 Non-conforming development.


### 26.50.001 Administrator.

The community development director or designee shall administer and be responsible for the enforcement of the Richland shoreline master program, and is referred to as the administrator or shoreline administrator in this title.

### 26.50.010 Permit requirements.

A. ~~Substantial d~~Developments proposed ~~on shorelines~~within the shoreline jurisdiction of Richland shall be allowed subject to the issuance of a shoreline permit from the city of Richland. Applications for a shoreline substantial development permit, shoreline special use permit, and shoreline variance are required to comply with the permit review provisions established by the state of Washington (Chapter 173-27 WAC) and the city of Richland, and shall be accompanied by a standard fee as set forth in the schedule of fees referenced in Chapter 19.80 RMC. Application forms containing the information required by WAC 173-27-180 shall be provided by the shoreline administrator.

B. Shoreline permits shall be classified as Type I or Type II permit applications according to the criteria established in RMC 19.20.010.

1. Decision authority for shoreline substantial development permits meeting the criteria for Type I permit applications shall rest with the administrator.

2. Decision authority for shoreline substantial development permits classified as Type II permit applications and all shoreline special use permits shall rest with the hearing examiner.

3. Decision authority for shoreline variances shall rest with the hearing examiner.

C. ~~Application~~ Applications for a shoreline substantial development permit or shoreline special use permit shall be considered a request for site plan approval as outlined in Chapter 23.48 RMC.

**26.50.011 Coordination with other agencies.**
The city will coordinate on issues relating to ecological conditions, functions and processes, and on wetland and ordinary high water delineations with the Washington State Department of Ecology, the Washington State Department of Natural Resources, and the Washington State Department of Fish and Wildlife, as well as other agencies with permit authority over a project, to the extent that agencies are timely in their response and coordination does not unduly extend review times.

**26.50.012 Development compliance.**
A. All uses and developments within the jurisdiction of the Shoreline Management Act shall be planned and carried out in a manner that is consistent with this program and the policies of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline special use permit is required. The city shall ensure compliance with the provisions of this program for all permits and approvals processed by the city.

B. Regulation of private property to implement any program 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 such as RCW 34.05.328 and 43.21C.060. An applicant requesting specific accommodation of constitutional or other legal limits in the application of standards and criteria of this program must do so in the application materials. The decision maker shall address such requests in specific findings.

C. Policies and provisions of this program and Chapter 90.58 RCW, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

D. In reviewing all shoreline permits, consideration shall be given to the cumulative impact of existing development, approved but not yet constructed development, and the likelihood of additional requests for like actions to the extent such uses are allowed in an area and development trends indicate a reasonable likelihood of occurrence. The city shall track and periodically evaluate the cumulative effects of all project review actions in shoreline areas.

E. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404 permits, Washington State Department of Ecology water quality certification (Section 401) national pollution discharge elimination system permits). The applicant is responsible for complying with these requirements apart from the process established in this chapter.

**26.50.020 Exemptions from shoreline substantial development permit.**

A. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW 90.58.140(1).

B. The following shall not be considered substantial developments for the purpose of this shoreline program and are exempt from obtaining a shoreline substantial development permit (SSDP); provided, that any additional exemptions established by legislative amendment of the statute shall constitute exemptions without amendment to this code. An exemption from an SSDP is not an exemption from compliance with the Act or the shoreline master program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this shoreline program and the Shoreline Management Act. A use or development exempt from a shoreline substantial development permit may require a shoreline special use permit or a shoreline variance.

1. Governor's Certification. Any project with a certification from the Governor pursuant to Chapter 80.50 RCW.

2. Projects valued at or below ~~$6,416,~~the current dollar amount established by RCW 90.58.030(3)(e) and WAC 173.27.040, as periodically amended for Consumer Price Index inflations.

3. Maintenance and Repair. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements.

a. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

b. "Normal repair" means to restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment.

c. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development, and the replacement structure or development is comparable to the original structure or development, including, but not limited to, its size, shape, configuration, location and external appearance, and the

replacement does not cause substantial adverse effects to shoreline resources or environment.

4. Emergency Construction. Emergency construction necessary to protect property from damage by the elements.

a. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow for full compliance with the shoreline master program.

b. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed 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, Chapter 173-27 WAC, or this shoreline program shall be obtained.

c. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the shoreline master program.

d. In general, flooding or other seasonal events that can be anticipated and may occur, but that are not imminent, are not an emergency.

5. Agricultural Construction or Practices. 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, and 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.

6. Construction of Single-Family Residence and Accessory Buildings. 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 family, which residence does not exceed a height of 35 feet above average grade level as defined in WAC 173-27-030, and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this section.

a. “Single-family” residence means a detached dwelling designed for and occupied by one family, including those structures and developments within a contiguous ownership which are a normal appurtenance. An “appurtenance” is

necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and the perimeter of a wetland.

b. Construction authorized under this exemption shall be located landward of the OHWM.

7. Construction of Noncommercial Docks. 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 multifamily residences. This exception applies if:

a. The fair market value of the dock does not exceed ~~$20,000~~ the current dollar amount established by RCW 90.58.030(3)(e) and WAC173.27.040, as periodically amended for Consumer Price Index inflations, for docks that are constructed to replace existing docks and are of equal or lesser square footage than the existing dock being replaced; or

b. Ten thousand dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in this subsection, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

c. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities, or other appurtenances.

d. The dock meets all requirements of this code. A private dock generally is prohibited.

8. Construction Authorized by the Coast Guard. 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.

9. Operation, Maintenance, or Construction Related to Irrigation. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as 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.

10. Marking of Property Lines on State-Owned Lands. The marking of property lines or corners on state-owned lands when such marking does not interfere with the normal public use of the surface of the water.

11. Operation and Maintenance of Agricultural Drainage or Dikes. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing as of September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.

12. Activities Necessary for Permit Application. Site exploration and investigation activities that are prerequisites to preparation of an application for development authorization under the shoreline master program, if:

a. The activity does not interfere with the normal public use of the surface waters;

b. The activity will have no significant adverse impact on the environment, including, but not limited to, fish, wildlife, fish or wildlife habitat conservation areas, water quality, and aesthetic values;

c. 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;

d. A private entity seeking development authorization under the shoreline master program first posts a performance bond or provides other evidence of financial responsibility to the administrator to assure that the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550.

13. Removal or Control of Noxious Weeds. 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 of Ecology jointly with other state agencies under Chapter 43.21C RCW.

14. Watershed Restoration Projects. Watershed restoration projects as defined below:

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:

i. A project that involves less than 10 miles of stream reach, in which less than 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.

ii. 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.

iii. 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 in-stream habitat enhancement structure associated with the project is less than 200 square feet in floor area and is located above the OHWM of the stream.

b. “Watershed restoration plan” means a plan developed or sponsored by a state department, a federally recognized Indian tribe, a city, or a conservation district, for which agency and public review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act. The watershed restoration plan generally contains 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.

15. Projects to Improve Fish and Wildlife Passage or Habitat. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

a. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage, and appropriately designed and sited to accomplish the intended purpose;

b. The project has received hydraulic project approval (HPA) by the Department of Fish and Wildlife pursuant to Chapter 75.20 RCW; and

c. The administrator has determined that the project is consistent with this shoreline master program.

~~16. Hazardous Substance Remediation. Hazardous substance remedial actions pursuant to WAC 173-27-040(3).~~

~~17.~~16. Projects on Lands Not Subject to Shoreline Jurisdiction Prior to Restoration. Actions on land that otherwise would not be under the jurisdiction of the Shoreline Management Act except for a change in the location of the OHWM or other criteria due to a shoreline restoration project approved in accordance with RMC 26.50.140 that creates a landward shift in the ordinary high water mark that brings the land under the jurisdiction of the Act.

17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

C. All of the above exemptions are subject to the following regulations:

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the shoreline substantial development permit process.

2. The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.

3. If any part of a proposed development is not eligible for exemption, then a shoreline substantial development permit or shoreline special use permit is required for the entire project.

**26.50.021 ~~Exemptions~~Exceptions to local review.**

A. While Shoreline Substantial Development Permit exemptions listed in RMC 26.50.020 remain subject to compliance with Shoreline Master Program standards, the Act allows for Exceptions to Local Review which exempts the following activities from compliance with Shoreline Master Program standards:

1. Remedial hazardous substance cleanup actions.

2. Boatyard improvements to meet NPDES requirements.

3. Washington State Department of Transportation (WSDOT) facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356.

4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.

**26.50.~~021~~025 Exemption procedures.**

A. A project requiring a permit from the city and subject to an exemption to a shoreline substantial development permit shall be reviewed under the criteria of the underlying permit with an additional finding recorded by the administrator addressing the grounds under which the permit is exempt.

B. Any person claiming exemption from the permit requirements of this shoreline program as a result of the exemptions specified in this ~~section~~ chapter may make application for a~~n exemption certificate~~ ~~permit~~ shoreline exemption permit to the administrator in the manner prescribed by the city, including payment of a fee as provided in the city's posted fee schedule.

C. For projects where Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers, the city shall transmit a~~n exemption certificate~~ shoreline exemption permit addressed to the applicant and the Department of Ecology whenever a development is subject to one or more of the following federal permit requirements:

1. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899, which generally applies to any project occurring on or over navigable waters. Specific applicability information should be obtained from the U.S. Army Corps of Engineers; or

2. A Section 404 permit under the Federal Water Pollution Control Act of 1972, which generally applies 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 U.S. Army Corps of Engineers.

The ~~letter~~ shoreline exemption permit shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the local government's analysis of the consistency of the project with the shoreline program and the Act.

D. The city may attach conditions to the approval of exempted developments and/or uses as necessary to ensure consistency of any project with the Shoreline Management Act and this shoreline master program.

**26.50.030 Shoreline permit application procedures.**
In addition to the public notice requirements of RMC Title 19, Development Regulation Administration, the following notice shall be provided for each application for a shoreline substantial development permit, shoreline special use permit, or shoreline variance ~~permit~~:

A. Within 14 days after the city has made a determination of completeness on the project permit application, the city shall issue public notice, including:

1. The date of application, the date of the notice of completion for the application, and the date of the notice of application;

2. 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 under RCW 36.70B.070, 36.70B.090, and WAC 173-27-180;

3. The identification of other permits not included in the application to the extent known by the city;

4. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

5. A statement of the public comment period, which shall be not less than 30 days following the date of notice of application;

6. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Public comments shall be accepted at any time prior to the

closing of the record of an open record hearing, if any, or, if no open record hearing is provided, prior to the decision on the project permit;

7. The date, time, place and type of hearing, if applicable and scheduled as of the date of notice of the application;

8. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and consistency; and

9. Any other information determined appropriate by the administrator.

B. Public notice shall include:

1. Mailing of the notice to all latest recorded real property owners, as shown by the records of the county assessor, located within at least 300 feet of the boundary of the property upon which the development is proposed;

2. Posting on the property;

3. Publication at least once in the official newspaper of the city; and

4. If an open record public hearing is required, a notice shall be provided at least 15 days prior to the hearing.

**26.50.040 Approval criteria.**
In order to approve any development within shoreline master program jurisdiction, the city must find that a proposal is consistent with the following criteria in addition to the requirements of RMC Title 19, Development Regulation Administration.

A. Conformance with the Shoreline Management Act of 1971, as amended;

B. General conformance with the goals ~~for~~ of the shoreline master program, the general development policies for the plan elements, and the applicable policy statements for the use activity and the shoreline environment;

C. Compliance with use regulations of the shoreline master program appropriate to the shoreline designation and the type of use or development proposed, particularly the preference for water-oriented uses, subject to liberal construction to give full effect to the objectives and purposes for which they have been enacted. If a non-water-oriented use is approved, the decision maker shall enter specific findings documenting why water-oriented uses are not feasible;

D. Compliance with bulk and dimensional regulations of the shoreline master program appropriate to the shoreline designation and the type of use or development proposed, except those bulk and dimensional standards that have been modified by approval of a shoreline variance;

E. Consideration of the recommendations and comments of the Richland parks and recreation commission, ~~as~~ if the proposed development will affect and be affected by the goals and objectives of city plans for parks, trails, and open space;

F. General conformance with the provisions of the Richland comprehensive plan;

G. Consideration of provisions for facilities and improved designs to accommodate and encourage use by the physically disabled;

H. Compliance with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; and

I. Compliance with applicable provisions of the Richland Municipal Code.

**26.50.050 Shoreline Special use permit.**

A. Certain uses are indicated in the use ~~chart~~ table as being permitted subject to the granting of a shoreline special use permit. The purpose of a shoreline special use permit is to provide greater flexibility in administering the use regulations of the shoreline program to accommodate certain uses which, by nature of use, intensity, or impact on an area, cannot be permitted outright within a shoreline environment in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline special ~~conditional~~ use permit, special conditions may be attached to the permit by the city or the Department of Ecology to prevent undesirable effects of the proposed use, and/or to ensure consistency of the project with the Act and the shoreline master program. Note: A shoreline special use permit is the same as a shoreline conditional use in WAC 172-27-160.

B. Applications for shoreline special use permits ~~for development on shorelines~~ shall be considered a request for site plan approval~~.~~; ~~and shall also be required to observe~~ the permit application review procedure set forth in this program shall apply.

C. Applicants shall disclose ~~as part of the~~with permit ~~process~~applications:

1. Any applicable federal, state or local regulatory permit requirements; and

2. The status of any contact with those agencies having permit jurisdiction over the proposed project, and the status of any permit applications that may have been applied for.

D. Uses ~~which are~~ classified in this shoreline program as special uses may be authorized; provided, that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020 and this shoreline master program;

2. That the proposed use will not interfere with the normal public use of public shorelines;

3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under Richland's comprehensive plan and shoreline master program;

4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

5. That the public interest suffers no substantial detrimental effect.

E. In the granting of all shoreline special use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline special use permits were granted for other developments in the area where similar circumstances exist, the total of the special uses shall also remain consistent with the policies of RCW 90.58.020, and shall not produce substantial adverse effects to the shoreline environment.

F. Other uses which are not classified or set forth in the shoreline master program may be authorized as special uses, provided the applicant can demonstrate consistency with the requirements of this section and the requirements for special uses contained in the shoreline program.

G. Uses which are specifically prohibited by the shoreline master program may not be authorized ~~pursuant to either subsection (A) or (B) of this section~~.

**26.50.060 Shoreline Variances.**

A. A development ~~may be granted~~ which is at variance with the specific bulk, dimensional or performance standards established in the shoreline master program may be allowed where, owing to extraordinary circumstances relating to the physical character or configuration of property, the literal interpretation and strict application of the criteria established in the shoreline master program would cause undue and unnecessary hardship or thwart the policies set forth in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances are present. ~~A variance permit may be required for a use that does not require a substantial development permit but which may not be approved because it does not comply with the provisions of the shoreline master program.~~

B. Review of a shoreline variance permit shall be in accordance with RMC 26.50.050, Shoreline Special use permit.

C. Decision Criteria. The hearing examiner must find each of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the shoreline master program precludes, or significantly interferes with, reasonable use of the property;

2. That the hardship described in subsection ~~(A)~~ (C)(1) of this section 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 shoreline master program, and not, for example, from deed restrictions or the applicant's own actions;

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;

4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

5. That the variance requested is the minimum necessary to afford relief; and

6. That the public interest will suffer no substantial detrimental effect.

7. In the granting of all shoreline 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.

**26.50.070 Time requirements for shoreline permits.**

A. The time requirements of this section shall apply to all shoreline substantial development permits, and to any development authorized pursuant to a shoreline variance permit or shoreline special use permit authorized under the shoreline master program.

B. No construction pursuant to such permit shall begin or be authorized, and no building, grading or other construction permits or use permits shall be issued by the city, until 21 days from the date a shoreline substantial development permit was filed with the Department of Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the 21 days immediately following the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

C. No permits and construction pursuant to a shoreline special use permit or shoreline variance shall begin or be authorized until 21 days from the date of notification of approval by the Department of Ecology, or until all review proceedings are completed as were initiated within the 21 days immediately following the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

D. Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this shoreline program, must be commenced within two years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary. However, the administrator may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed with the city before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. “Construction activities” or “commencement of construction” means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed.

E. A permit authorizing construction shall extend for a term of no more than five years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and subsection (F) of this section. If an applicant files a request for an extension prior to expiration of the shoreline permit, the administrator shall review the permit, and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise, said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and the Department of Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted building codes.

F. If it is determined that standard time requirements of subsections (D) and (E) of this section should not be applied, the decision maker, upon a finding of good cause, may establish shorter time limits; provided, that as a part of action on a special use or variance, the approval of the Department of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.

G. For purposes of determining the life of a shoreline permit, the effective date of a shoreline substantial development permit, shoreline special use permit, or shoreline variance permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods do not include the time during which a use or activity was not actually pursued due to the pendency of 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.

H. It is the responsibility of the applicant to inform the administrator of the pendency of other permit applications filed with agencies other than the city, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the city prior to the expiration date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the effective date of the shoreline permit.

I. If the granting of a shoreline permit by the city is appealed to the Shorelines Hearings Board, and the Shorelines Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shorelines Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(c).

**26.50.080 Land division.**

Prior to approval of any land division, such as short subdivisions, preliminary long plats, and boundary line adjustments within shoreline jurisdiction, the city shall document compliance with bulk and dimensional standards as well as policies and regulations of the shoreline master program, and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities, and future use associated with such lands are consistent with the shoreline master program. A prohibition on individual private docks shall be imposed on all land divisions.

**26.50.090 Construction permit compliance.**
For all development within shoreline jurisdiction, the building official shall not issue a construction permit for such development until compliance with the shoreline master program has been documented. If a shoreline substantial development permit is required, no permit shall be issued until all comment and appeal periods have expired. Any permit issued by the building official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

**26.50.100 Rulings to state.**
Any ruling on an application for a permit or permit revision under authority of this shoreline program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology and the Attorney General by the administrator. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

**26.50.110 Appeals.**
Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the Shorelines Hearings Board by filing a petition for review within 21 days of the date of receipt of the decision as provided for in RCW 90.58.140(6).

**26.50.120 Rescission of permits.**
A. Any shoreline permit issued under the terms of this shoreline master program may be rescinded or suspended upon a finding that a permittee has not complied with conditions of the permit.

B. Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which shall be sent by registered or certified mail, return receipt requested, to the address listed on the application, or to such other address as the applicant or permittee may have advised the city; or such notice may be served on the applicant or permittee in person or on his agent in the same manner as service of summons as provided by law.

C. Before any such permit can be rescinded, a public hearing shall be held by the administrator. Notice of the public hearing shall be made in accordance with Chapter 19.40 RMC. The decision of the administrator shall be the final decision of the city on all rescinded applications. A written decision shall be transmitted to the Department of Ecology, the Attorney General's office, the applicant, and such other departments or boards of the city as are affected thereby and the city council.

D. The Department of Ecology may petition the Shorelines Hearings Board for a rescission of the permit if Ecology is of the opinion that the noncompliance continues to exist 30 days after the date of the notice, and the city has taken no action to rescind the permit, as provided by RCW 90.58.140(8).

**26.50.121 Violations – Penalties.**
A. Violation of this chapter is subject to the procedures and penalties of Chapter 10.02 RMC, Violations and Procedures.

B. In addition to the provisions of RMC Title 10, the city attorney may bring action pursuant to Chapter 90.58 RCW and other applicable statutes, including such injunctive, declaratory, or other actions as are necessary to ensure 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 shoreline program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this program and the Shoreline Management Act of 1971, including the cease and desist provisions of WAC 173-27-270.

C. Any person who shall fail to conform to the terms of a permit issued under this chapter, or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter, shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.

D. In addition to incurring civil liability, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the shoreline master program rules or regulations adopted pursuant thereto shall be guilty of a misdemeanor, and shall be punished by a fine of not less than $25~~.00~~ nor more than $1,000 or by imprisonment for not more than 90 days, or by both such fine and imprisonment; provided, that the third and all subsequent violations in any five-year period shall constitute a gross misdemeanor punishable by up to 364 days of imprisonment and a fine of not less than $500~~.00~~ nor more than $5,000.

E. In addition to subsections (A) through (D) of this section, any person subject to this shoreline program who violates any provision of this shoreline 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 shall 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.

**26.50.140 Restoration project relocation of OHWM.**
The city may grant relief from shoreline master program development standards and use regulations when the following apply:

A. A shoreline restoration project causes, or would cause, a landward shift in the ordinary high water mark, resulting in the following:

1. Land that had not been regulated under this title prior to construction of the restoration project is brought under shoreline jurisdiction; or

2. Additional regulatory requirements apply due to a landward shift in required ~~shoreline~~ buffers or other regulations of the shoreline master program; and

3. Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.

B. The proposed relief meets all of the following criteria:

1. The proposed relief is the minimum necessary to relieve the hardship;

2. After granting the proposed relief, there is net environmental benefit from the restoration project; and

3. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program.

4. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.

C. The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during Ecology's normal review of a shoreline substantial development permit, shoreline special use permit, or shoreline variance. If no such permit is required, then Ecology shall conduct its review when the city provides a copy of a complete application and all supporting information necessary to conduct the review.

1. Except as otherwise provided in subsection (D) of this section, the Department of Ecology shall provide at least 20 days' notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on Ecology's website.

2. The Department of Ecology shall act within 30 calendar days of close of the public notice period, or within 30 days of receipt of the proposal from the city if additional public notice is not required.

D. The public notice requirements of subsection (C) of this section do not apply if the relevant shoreline restoration project was included in a shoreline master program or shoreline restoration plan as defined in WAC 173-26-201, as follows:

1. The restoration plan has been approved by Ecology under applicable shoreline master program guidelines; and

2. The shoreline restoration project is specifically identified in the shoreline master program or restoration plan, or is located along a shoreline reach identified in the shoreline master program or restoration plan as appropriate for granting relief from shoreline regulations; and

3. The shoreline master program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

**26.50.150 Shoreline moratorium.**

The city council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act in accordance with RCW 90.58.590.

**26.50.160 Non-conforming development.**

A. "Non-conforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP. Nonconforming use and development standards not addressed in RCW 90.58.270(5), 90.58.620, and not addressed by the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the RMC, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City's Shoreline Administrator.

B. Nonconforming development is a shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP or policies of the SMA. In such cases, the following standards shall apply:

1) Nonconforming uses and structures may continue provided that it is not enlarged or expanded;

2) A nonconforming use or structure which is moved any distance must be brought into conformance with the SMA and the SMP;

3) If a nonconforming structure is damaged to an extent not exceeding fifty percent (50%) replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one (1) year of the date of damage. Single-family nonconforming development may be replaced if damaged to one hundred percent (100%), if the restoration is completed within three (3) years of the date of damage;

4) If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two (2) year period, any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

5) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;

6) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the SMA and the SMP, but which does not conform to the present lot size or density standards may be developed so long as such development conforms to all other requirements of the SMA and the SMP;

7) A use which is listed as a special use but which existed prior to adoption of the SMP for which a shoreline special use permit has not been obtained shall be considered a nonconforming use; and

8) A structure for which a shoreline 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.

# Chapter 26.60
# ~~SENSITIVE~~CRITICAL AREAS

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## Article I. General Provisions

**26.60.005 ~~Sensitive~~Critical areas.**
The following sections of this chapter, ~~Sensitive~~ Critical Areas, apply to ~~sensitive~~ critical areas within Shoreline Management Act jurisdiction.

**26.60.010 General purpose and intent.**
A. ~~Sensitive~~Critical areas perform many important biological and physical functions that benefit the city of Richland and its residents. The city shall regulate in the shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more ~~sensitive~~ critical areas, consistent with the provisions of this chapter, ~~Sensitive~~Critical Areas.

These functions include, but are not limited to, the following (by type):

1. Wetlands: helping to maintain water quality; storing and conveying stormwater and flood water; recharging ground water; ~~providing important wildlife habitat; and serving as areas for recreation, educational and scientific study, and aesthetic appreciation.~~ Contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; providing important wildlife habitat i.e. providing food,

breeding, nesting and/or rearing habitat for fish and wildlife; improving water quality through biofiltration, adsorption and retention and transformation of sediments, nutrients and toxicants and serving as areas for recreation, educational and scientific study, and aesthetic appreciation; such beneficial functions are widely known as ecosystem services.

2. Fish and wildlife ~~habitat areas~~habitat conservation areas: maintaining species diversity and genetic diversity of local flora and fauna; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, educational and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.

3. In addition, certain portions of the city of Richland are characterized by geologic hazards that pose a risk to public and private property, to human life and safety, and to the natural systems that make up the environment of the city of Richland. These lands are affected by natural processes that make them susceptible to landslides, seismic activity, and/or severe erosion. The city of Richland maintains that protection of ~~sensitive~~ critical areas and regulation of geologic hazards are necessary to protect the public health, safety, and welfare.

4. Certain portions of the city are located within critical aquifer recharge areas whose potential contamination poses a risk to public health and safety. These lands are susceptible to the degradation of ground water quality and quantity that could potentially impact potable water systems.

5. Certain portions of the city are subject to frequent flooding. Areas that are subject to flooding perform important hydrologic functions and may present risks to persons and property. Floodplains are regulated by the city under Chapter 22.16 RMC.

B. This chapter contains standards, guidelines, criteria and requirements intended to identify, analyze, and mitigate probable impacts to the city of Richland's ~~sensitive~~ critical areas and ~~geologic hazard areas~~geologically hazardous areas within the shoreline jurisdiction and to enhance and restore them when possible. The intent of these regulations, in concert with other shoreline master program provisions, is to achieve no net loss of ecological function. In appropriate circumstances, impacts to ~~sensitive~~ critical and ~~geologic hazard areas~~geologically hazardous areas that result from regulated activities may be minimized, rectified, reduced, and/or compensated for, consistent with these requirements. The city of Richland's goal shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded ecological functions and ecosystem-wide processes to achieve no net loss of shoreline ecological functions, and to avoid probable impacts, to the extent feasible, to all ~~sensitive~~critical areas.

C. It is the intent of this chapter to:

1. Implement the goals and policies of the city of Richland's comprehensive plan, including those goals and policies that pertain to natural features and environmental

protection; aesthetics and community character; adequate housing and infrastructure; opportunities for economic development; creation of a balanced transportation system; adequate public facilities; and achievement of a mix of land use types and densities consistent with the city of Richland's land use plan;

2. Protect ~~sensitive~~ critical areas through the application of the most current, accurate, and complete scientific or technical information available as determined according to WAC 173-26-201(2)(a), and in consultation with state and federal agencies and other qualified professionals, and to integrate the full spectrum of state, tribal, and federal programs;

3. Comply with the Shoreline Management Act, Chapter 90.58 RCW, and implementing rules;

4. Serve as a basis for exercise of the city's substantive authority under the State Environmental Policy Act (SEPA) and the city's SEPA rules;

5. Comply with the requirements of the Growth Management Act, Chapter 36.70A RCW, and implementing rules; and

6. Coordinate environmental review and permitting of proposals to avoid duplication and delay.

D. The city of Richland has mapping available from a variety of local, state, and federal information sources and based on topographic, geologic, hydrologic, and habitat characteristics that indicate where ~~sensitive~~ critical areas or geologic hazards may exist. Additional study and mapping are needed to verify that such conditions do prevail, and to identify other areas that are potentially ~~sensitive~~ critical areas. Maps and reference documents in the city of Richland's SMP inventory, characterization and analysis report include this information. This mapping helps the city identify the potential presence of ~~sensitive~~ critical areas or the risks associated with developing lands subject to geologic hazards to the public. It should be noted that the boundaries of the ~~sensitive~~ critical areas ~~and geologic hazard areas~~ displayed on these maps are approximate and are not intended to be used for individual site assessment. When differences occur between what is illustrated on these maps and current site conditions, the actual presence or absence of environmentally ~~sensitive~~ critical areas ~~or geologic hazard areas~~ on the site shall determine the action to be taken.

**26.60.012 General applicability of these regulations.**
The provisions of these regulations shall apply to any activity ~~that affects~~ affecting ~~sensitive~~ critical areas or their established buffers within the city's shoreline jurisdiction, and this provision applies whether or not a shoreline substantial development permit or other type of city approval is being sought or is required.

**26.60.015 General relationship of regulations ~~of one type of sensitive area protection~~ to other regulations.**
These ~~sensitive~~ critical area regulations shall apply as an overlay and in addition to shoreline, zoning, land use, and other regulations established by the city of Richland.

Areas characterized as ~~sensitive~~ critical may also be subject to other regulations established by this title due to the overlap or multiple functions of some ~~sensitive~~ critical ~~or critical~~ areas. For example, some landslide hazard areas (e.g., steep slopes) adjacent to wetlands may be regulated by buffering requirements according to the wetland management provisions of this title. Wetlands may be defined and regulated according to the wetland section and habitat management provisions of this title.

In the event of any conflict between these regulations and any other regulations of the city of Richland, the regulations which provide greater protection to environmentally ~~sensitive~~ critical areas shall apply.

## Article II. Wetlands

### 26.60.020 Regulated activities in wetlands.

The following activities ~~which occur in conjunction with a development application~~ within a wetland and its associated buffer, or outside a wetland or buffer but affecting the wetland or buffer, shall be regulated pursuant to the standards of this chapter to achieve, at a minimum, no net loss of wetland area and ecological functions, including lost time when the wetland does not perform the function:

A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

B. Dumping, discharging or filling with any material;

C. Draining, flooding or disturbing the water level or water table;

D. Driving, piling or placing obstructions;

E. Constructing, reconstructing, demolishing or altering any structure or infrastructure, or if the activity results in greater impervious surface coverage;

F. Destroying or altering vegetation, including through clearing, intentional burning, harvesting, shading or planting vegetation that would alter the character of wetland;

G. Activities that result in significant changes in water temperature, physical or chemical characteristics of wetland water sources, introduction of pollutants, including water quantity and quality as stated in Chapter 90.03 RCW and Chapter 173-201 WAC;

H. Alteration of natural drainage patterns or any activity that results in a discharge of stormwater runoff into a wetland; and

I. Any other activities affecting a wetland or wetland buffer not otherwise exempt from the provisions of this article.

### 26.60.021 ~~Exemptions~~ Exceptions and allowed uses in wetlands.

A. Wetlands. Small, isolated wetlands in arid landscapes often have higher value and perform greater functions than in other settings. However, in certain circumstances, applying the buffers in Table 26.60.024(D) RMC may result in buffer areas larger than the wetland being protected. In these instances, a critical area report for wetlands must

be submitted and the City may consult with the Department of Ecology to determine whether ~~exemptions~~exceptions from mitigation sequencing and/or reduced buffers are warranted.~~The following wetlands are exempt from the buffer provisions contained in this chapter and the normal mitigation sequencing process in RMC 26.20.020. They may be filled if impacts are fully mitigated based on provisions in RMC 26.60.026, Wetland alteration and mitigation. In order to verify the following conditions, a critical area report for wetlands must be submitted:~~

~~1. All isolated Category III and IV wetlands less than 1,000 square feet that:~~

~~a. Are not associated with riparian areas or buffer;~~

~~b. Are not part of a wetland mosaic;~~

~~c. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance;~~

~~d. Are not a vernal pool;~~

~~e. Are not an alkali wetland; and~~

~~f. Do not contain aspen stands.~~

B. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a ~~sensitive~~ 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:

1. 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 Chapter 76.09 RCW and Chapter 222-12 WAC.

2. 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.

3. 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.

4. Agricultural activities that are existing and ongoing; provided, that they implement applicable best management practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Service's Field Office Technical Guide; or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts to wetlands from livestock, nutrient and farm chemicals, soil erosion and sediment control and

agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations and wildlife habitat.

~~4~~5. 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.

~~5~~6. Enhancement of a wetland through the removal of nonnative 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. Revegetation with appropriate native species at natural densities shall occur in conjunction with removal of invasive plant species.

~~6~~7. Educational and scientific research activities.

~~7~~8. 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.

C. Notwithstanding the ~~exemptions~~ exceptions provided by this chapter, any otherwise exempt activities occurring in or near wetlands shall comply with the intent of these standards and shall consider on-site alternatives that achieve no net loss of ecological wetland functions.

**26.60.022 Wetland inventory maps.**

The approximate location and extent of wetlands within the city of Richland's planning area are shown on the ~~sensitive~~ critical areas maps adopted as part of this program, and provided in the city's SMP inventory, analysis and characterization report. These maps shall be used only as a general guide for the assistance of property owners and the public, as the boundaries are generalized. The actual type, extent, and boundaries of wetlands shall be determined in the field by a qualified ~~consultant~~ professional according to the procedures, definitions, and criteria established by this title. In the event of any conflict between the wetland location or designation shown on the city of Richland's maps and the criteria or standards of this title, the results of applying the criteria and standards during the field investigation shall control.

Additional guidance may be obtained from a Department of Ecology publication "Focus on Irrigation Influenced Wetlands, Publication No. 10-06-015." Or as may be amended in the future.

**26.60.023 Rating – Categories of wetland.**
Wetlands shall be designated Category I, Category II, Category III, or Category IV according to the following criteria:

~~A. Categories I, II, III, and IV are~~ As set forth in the Washington State Department of Ecology's Washington State Wetlands Rating System for Eastern Washington, Publication No. 04-06-030, as may be amended in the future (hereinafter referred to as the Ecology Wetlands Rating System).

**26.60.024 Wetland buffer areas.**
A. The establishment of wetland ~~buffer areas~~ buffers shall be required for all development proposals and activities adjacent to wetlands to protect the integrity, function, and value of the wetland. Buffers shall consist of an undisturbed area of vegetation established to protect the functions and values of the wetland. 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. Buffers shall be determined in conjunction with considerations of wetland type and quality, approved wetland alterations, and required mitigation measures. Buffers are not intended to be established or to function independently of the wetland they are established to protect; the establishment of a buffer shall not operate to prevent a use or activity that would otherwise be permitted in the wetland subject to mitigation.

B. Buffers shall be measured from the wetland edge as delineated using the ~~1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and the Arid West Regional Supplement.~~ Aapproved federal wetland delineation manual and applicable regional supplements as may be amended. Buffers shall be marked in the field. Required buffer widths shall be determined according to the proposed land use (Table 26.60.024(C)) and the wetland category (Table 26.60.024(D)).

C. The following table describes the types of land use:

**Table 26.60.024(C) Land Use Intensity Table**

| **Level of Impact from Proposed Change in Land Use** | **~~Types of~~ Land Use Types ~~Based on Common Zoning Designations~~** | |
|---|---|---|
| High | • | Commercial |
| | • | Urban |
| | • | Industrial |
| | • | Institutional |
| | • | Retail sales |
| | • | Residential (more than 1 unit/acre) |

| Level of Impact from Proposed Change in Land Use | ~~Types of~~ Land Use Types ~~Based on Common Zoning Designations~~ | |
|---|---|---|
| | • | High intensity recreation (golf courses, ball fields, etc.) |
| | • | Conversion to high intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) |
| | • | Hobby farms |
| Moderate | • | Residential (1 unit/acre or less) |
| | • | Moderate intensity open space (parks with biking, jogging, etc.) |
| | • | Paved driveways and gravel driveways serving 3 or more residences |
| | • | Paved trails |
| | • | Conversion to moderate intensity agriculture (orchards, hay fields, etc.) |
| | • | Utility corridor or right-of-way shared by several utilities and including access/maintenance road |
| Low | • | Low intensity open space (hiking, bird watching, preservation of natural resources, etc.) |
| | • | Timber management (cutting of trees only) |
| | • | Gravel driveways serving 2 or fewer residences |
| | • | Unpaved trails |
| | • | Utility corridor without a maintenance road and little or no vegetation management |

D. The following buffer widths are established:

**Table 26.60.024(D) Wetland Buffer Widths**

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| *Category IV Wetlands (For wetlands scoring less than 16 points for all functions)* | | |
| Score for all 3 basic functions is less than 16 points | Low – 25 ft<br>Moderate – 40 ft<br>High – 50 ft | ~~No recommendations at this time~~<br>None |
| *Category III Wetlands (For wetlands scoring 16 – 18 points for all functions)* | | |
| Moderate level of function for habitat (score for habitat 5 – 7 points) | Low – 75 ft<br>Moderate – 110 ft<br>High – 150 ft | ~~No recommendations at this time~~<br>None |

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| ~~*If wetland scores 8 – 9 habitat points, see Category II buffers~~ | | |
| Score for habitat 3 – 4 points | Low – 40 ft<br>Moderate – 60 ft<br>High – 80 ft | ~~No recommendations at this time~~<br>None |
| *Category II Wetlands (For wetlands that score 19 – 21 points for all functions or having the "special characteristics" identified in the rating system)* | | |
| High level of function for habitat (score for habitat 8 – 9 points) | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft | Maintain connections to other ~~habitat areas~~habitat conservation areas |
| Moderate level of function for habitat (score for habitat 5 – 7 points) | Low – 75 ft<br>Moderate – 110 ft<br>High – 150 ft | ~~No recommendations at this time~~<br>None |
| High level of function for water quality improvement ~~and low for habitat (score for water quality~~ 8 – 9 points; low for habitat less than 5 points) | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | ~~No recommendations at this time~~ No additional surface discharges of untreated runoff |
| Riparian forest | Buffer width to be based on score for habitat functions or water quality functions | Riparian forest wetlands need to be protected at a watershed or subbasin scale.<br>Other protection based on needs to protect habitat and/or water quality functions |
| Not meeting above characteristics | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | ~~No recommendations at this time~~<br>None |
| *Category I Wetlands (For wetlands that score 22 points or more for all functions or having the "special characteristics" identified in the rating system)* | | |
| Wetlands of high conservation value | Low – 125 ft<br>Moderate – 190 ft<br>High – 250 ft | No additional surface discharges to wetland or its tributaries<br>No septic systems within 300 ft of wetland<br>Restore degraded parts of buffer |
| High level of function for habitat (score for habitat 8 – 9 points) | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft | Restore degraded parts of buffer<br>Maintain connections to other ~~habitat areas~~habitat conservation areas |
| Moderate level of function for habitat (score for habitat 5 – 7 points) | Low – 75 ft<br>Moderate – 110 ft<br>High – 150 ft | ~~No recommendations at this time~~<br>None |
| High level of function for water quality improvement (8 – 9 | Low – 50 ft<br>Moderate – 75 ft | No additional surface discharges of untreated runoff |

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| points) and low for habitat (less than 5 points) | High – 100 ft | |
| Not meeting any of the above characteristics | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | ~~No recommendations at this time~~<br>None |

**26.60.025 Wetland Buffer modifications.**

A. 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 environmentally 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 three-quarters of the required width or 75 feet for Categories I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

B. Averaging ~~for proposed land~~ to allow reasonable uses may be allowed 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.

3. The total buffer area after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either three-quarters of the required width or 75 feet for Categories I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

C. Reduction in Buffer Width Based on Reducing the Intensity of Impacts from Proposed Land Uses.

1. The buffer widths recommended for proposed land uses with high intensity impacts to wetlands can be reduced to those recommended for moderate intensity impacts under the following conditions:

a. For wetlands that score moderate or high for habitat (five points or more for the habitat functions), the width of the buffer can be reduced if all three of the following criteria are met:

i. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. ("Relatively undisturbed" and "vegetated corridor" are defined in the Washington State Wetland Rating System for Eastern Washington – 2014 Update, or latest update.) Priority habitats in eastern Washington include:

(A) Wetlands;

(B) Riparian zones;

(C) Cliffs;

(D) Urban natural open space.

(E) Shrub-steppe habitat

ii. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection, such as a conservation easement.

iii. Measures to minimize the impacts of different land uses on wetlands, ~~such as the examples summarized~~ as applicable in Table 26.60.025(D), are applied.

b. For wetlands that score fewer than five points for habitat, the buffer width can be reduced to that required for moderate land use impacts by applying applicable measures to minimize the impacts of the proposed land uses (see examples in Table 26.60.025(D)).

D. ~~Examples of Measures to Minimize Impacts~~ Required Mitigation to Minimize Impacts to Wetlands from Changes in Land Uses with High Impacts.

**Table 26.60.025(D) Examples of Measures to Minimize Impacts to Wetlands from Changes in Land Uses with High Impacts**

| ~~Examples of~~ Disturbance Types | Examples of Activities and Uses that Cause Disturbances | ~~Examples of Measures to Minimize Impacts~~ Required Mitigation |
|---|---|---|
| Lights | • Parking lots<br>• Warehouses<br>• Manufacturing<br>• Residential areas | • Direct lights away from wetland |
| Noise | • Manufacturing<br>• Residential areas | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-ft. heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff* | • Parking lots<br>• Roads<br>• Manufacturing<br>• Residential areas<br>• Application of agricultural pesticides<br>• Landscaping | • Route all new, untreated runoff away from wetland, while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Parking lots<br>• Roads<br>• Manufacturing<br>• Residential areas<br>• Commercial<br>• Landscaping | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer<br>• Use low-impact development techniques |
| Change in water regime | • Impermeable surfaces<br>• Lawns<br>• Tilling | • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Residential areas | • Use privacy fencing; 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 |
| Dust | • Tilled fields | • Use BMPs to control dust |

| ~~Examples of~~ Disturbance Types | Examples of Activities and Uses that Cause Disturbances | ~~Examples of Measures to Minimize Impacts~~ Required Mitigation |
|---|---|---|
| * These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site. | | |

E. The ~~minimum~~ buffer width stated in Table 26.60.024(D), Wetland Buffer Widths, shall be increased when the qualified ~~consultant~~ professional determines, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width. The standard wetland buffer width shall be increased:

1. When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or

2. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

3. When the wetland provides habitat for a species that is particularly sensitive to disturbance (listed by the federal government or the state as endangered, threatened, candidate, monitored or documented priority species or habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees), the width of the buffer should be increased to provide adequate protection for the species based on its particular life-history needs; or

4. When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be ~~increased by 50 percent.~~ The greater of either:

a. The minimum buffer for that particular wetland; or

b. Twenty-five (25) feet beyond the point where slopes become 25% or less.

F. Low impact land uses and activities (see Table 26.60.024(C)) that are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Examples of uses and activities that may be permitted in appropriate cases, based on guidance in the Wetlands ~~and CAO Guidance for Small Cities, Eastern Washington version (dated January 2010, revised October 2012, as may be~~ Guidance for CAO updates, June 2016, publication No. 16-06-002 and as amended in the future~~)~~, include pervious pedestrian trails, viewing platforms, normal and routine maintenance of existing ~~stormwater management facilities such as grass-lined swales, and~~ utility easements provided the maintenance and repair does not increase the footprint or use of the facility or right-of-way. Uses permitted within the buffer shall be located in the outer portion of the buffer as far as possible from the wetland.

G. A variance from buffer width requirements may be granted by the city of Richland Hearing Examiner following a Type II procedure and payment of a fee as set forth in RMC Title 19 upon a demonstration by the applicant that the shoreline variance criteria are met per RMC 26.50.060.

H. Signs and Fencing of Wetlands and Buffers.

1. Temporary Markers. The outer perimeter of the wetland buffer and the clearing limits identified in an approved permit or land use approval 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. Temporary marking shall be maintained throughout completion of all construction activities.

2. Permanent Signs. As a condition of any permit or land use approval, the administrator may require the applicant to install permanent signs along the boundary of a wetland or its buffer. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post. Signs, when required, shall be posted at an interval of one every 50 feet or one per lot if a lot is less than 50 feet wide and must be maintained by the property owner in perpetuity. Wording of the sign shall note the presence of a protected wetland area and/or wildlife habitat. Specific wording of the sign shall be approved by the administrator.

3. Fencing.

a. The applicant shall be required to install a permanent fence around the wetland or its buffer when domestic grazing animals are present or may be introduced on site.

b. Fencing installed as part of a proposed activity or as required by the administrator shall be designed so as not to interfere with species migration and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

**26.60.026 Wetland alteration and mitigation.**

A. All adverse impacts to wetland functions and values shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the ~~following~~ priority sequence per RMC 26.20.020(B), Ecological functions, no net loss (mitigation sequence).

B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards, and criteria of this section. These shall include consideration of alternative site plans and building layouts and/or reduction in the density or scope of the proposal.

C. Alteration of wetlands and/or their buffers may be permitted by the ~~city~~ Administrator subject to the following criteria:

1. Category I Wetlands. Alterations of Category I wetlands shall be avoided.

2. Category II, III & IV Wetlands.

a. Any proposed alteration and mitigation shall comply with the requirements of this section through RMC 26.60.0~~28~~30, Mitigation standards, criteria, ~~and~~ plan requirements, and design standards for wetlands mitigation planning; and

b. No net loss of wetland function and value will occur due to the alteration; and

~~3. Category III Wetlands.~~

~~a.~~c. ~~The proposed mitigation complies with the requirements of this section through RMC 26.60.028, Mitigation standards, criteria, and plan requirements~~ avoids alterations of wetlands previously enhanced or created as mitigation~~; and~~

~~b.~~c. Where enhancement is proposed, replacement ratios comply with the requirements of RMC 26.60.028(C), Wetland Replacement Ratios.~~.~~; and

d. Avoids alterations of wetlands previously enhanced or created as mitigation.

**26.60.027 Stormwater runoff.**

New development within 150 feet of a wetland buffer shall contain stormwater runoff within the developed portions of the site. No stormwater runoff shall drain into the wetland. Deviations from this standard may be approved by the ~~city~~ Administrator; provided, that a study undertaken by a qualified ~~consultant~~ professional in accordance with the provisions of RMC 26.60.028 indicates that the potential discharge of stormwater runoff from a development site into a wetland is adequately mitigated to protect the functions and values of the wetland. In the case of a Category III or Category IV wetland, stormwater management facilities may be located within the outer 25 percent of the required wetland buffer; provided, that a determination is made that no other location is feasible and the location of such facilities will not have an adverse impact on the functions and values of the wetland.

Streamflows that are influenced by irrigation practices are not considered stormwater runoff for the purposes of this chapter.

**26.60.028 Mitigation standards, criteria, and plan requirements.**

~~A. Location and Timing of Mitigation.~~

~~1. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same subdrainage basin and on the site of the alteration except when all of subsections (A)(1)(a) through (d) of this section apply. In that case, mitigation may be allowed off site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.~~

a. There are no reasonable opportunities on site or within the subdrainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the subdrainage 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. On-site mitigation would require elimination of high-quality upland habitat.

c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

d. Off-site locations shall be in the same subdrainage basin unless:

i. 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.

ii. 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.

2. Timing of Compensatory Mitigation. It is desirable 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.

3. 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.

B. Mitigation Performance Standards.

1. Adverse impacts to wetlands functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in RMC 26.20.020, Ecological functions, no net loss. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

a. All feasible and reasonable measures will be taken to reduce impacts and losses to the original wetland. Describe how preferred order of wetlands mitigation was followed: (i) restoration (including reestablishment and rehabilitation); (ii) creation (establishment); (iii) enhancement in combination with restoration or creation; and (iv) preservation of high-quality, at-risk wetlands.

b. Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible, and shall achieve equivalent or greater wetland ecological functions.

c. No overall net loss will occur in wetland functions and values.

d. The restored, created, or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

C. Wetland Replacement Ratios.

1. Where wetlands alterations are permitted by the city, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors, and projected success of restoration or creation.

2. The following acreage replacement ratios shall be applied:

**Table 26.60.028. Mitigation Ratios for Eastern Washington[1]**

| Category and Type of Wetland Impacts | Reestablishment or Creation | Rehabilitation Only[2] | Reestablishment or Creation (R/C) and Rehabilitation (RH)[2] | Reestablishment or Creation (R/C) and Enhancement (E)[2] | Enhancement Only[2] |
|---|---|---|---|---|---|
| All Category IV | 1.5:1 | 3:1 | 1:1 R/C and 1:1 RH | 1:1 R/C and 2:1 E | 6:1 |
| All Category III | 2:1 | 4:1 | 1:1 R/C and 2:1 RH | 1:1 R/C and 4:1 E | 8:1 |

| Category and Type of Wetland Impacts | Reestablishment or Creation | Rehabilitation Only[2] | Reestablishment or Creation (R/C) and Rehabilitation (RH)[2] | Reestablishment or Creation (R/C) and Enhancement (E)[2] | Enhancement Only[2] |
|---|---|---|---|---|---|
| Category II Forested | 4:1 | 8:1 | 1:1 R/C and 4:1 RH | 1:1 R/C and 6:1 E | 16:1 |
| Category II Vernal Pool | 2:1 Replacement must be seasonally ponded wetland | 4:1 Replacement must be seasonally ponded wetland | 1:1 R/C and 2:1 RH | Case-by-case | Case-by-case |
| All Other Category II | 3:1 | 6:1 | 1:1 R/C and 4:1 RH | 1:1 R/C and 8:1 E | 12:1 |
| Category I Forested | 6:1 | 12:1 | 1:1 R/C and 10:1 RH | 1:1 R/C and 20:1 E | 24:1 |
| Category I Based on Score for Functions | 4:1 | 8:1 | 1:1 R/C and 6:1 RH | 1:1 R/C and 12:1 E | 16:1 |
| Category I Wetland of High Conservation Value | Not considered possible[3] | 6:1 Rehabilitation of a natural heritage site | R/C Not considered possible[3] | R/C Not considered possible[3] | Case-by-case |
| Category I Alkali | Not considered possible[3] | 6:1 Rehabilitation of an alkali wetland | R/C Not considered possible[3] | R/C Not considered possible[3] | Case-by-case |
| Category I Bog | Not considered possible[3] | 6:1 Rehabilitation of a bog | R/C Not considered possible[3] | R/C Not considered possible[3] | Case-by-case |

1. Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment. See Table 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance – Version 1 (Ecology Publication No. 06-06-011a, Olympia, WA, March 2006, or as revised).
2. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.
3. Natural heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through

~~compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.~~

~~Reference:~~

~~Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication No. 06-06-011a, Olympia, WA.~~

~~3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication No. 06-06-011a-b, Olympia, WA, March 2006), the administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication No. 11-06-015, August 2012, or as revised).~~

A. Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the satisfaction of the administrator that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

1. Restoration. Restoration is divided into:

a. Reestablishment.

b. Rehabilitation.

2. Creation (Establishment). If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the administrator may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

a. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

b. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light or other impacts); and

c. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

3. Enhancement. Applications proposing to enhance wetland or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

4. Protection/Maintenance (Preservation). Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:

a. The administrator determines that the proposed preservation is the best mitigation option;

b. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

c. The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:

i. Category I or II wetland rating (using the wetland rating system for Eastern Washington);

ii. Rare or irreplaceable wetland type or aquatic habitat that is rare or a limited resource in the area;

iii. The presence of habitat for priority or locally important wildlife species;

iv. Provides biological and/or hydrological connectivity;

v. Priority sites in an adopted watershed plan.

d. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust;

e. The administrator may approve other legal and administrative mechanisms in lieu of a conservation easement if determined to be adequate to protect the site;

f. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

B. Location and Timing of Mitigation.

1. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same subdrainage basin and on the site of the alteration except when all of subsections (B)(1)(a) through (d) of this section apply. In that case, mitigation may be allowed off site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.

a. There are no reasonable opportunities on site or within the subdrainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the subdrainage 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. On-site mitigation would require elimination of high-quality upland habitat.

c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

d. Off-site locations shall be in the same subdrainage basin unless:

i. 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.

ii. 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.

2. 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.

3. 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 administrator.

C. Mitigation Performance Standards.

1. Adverse impacts to wetlands functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in RMC 26.60.026. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

a. All feasible and reasonable measures will be taken to reduce impacts and losses to the original wetland, including a description of how preferred order of wetlands mitigation was followed: (i) restoration (including reestablishment and rehabilitation); (ii) creation (establishment); (iii) enhancement in combination with restoration or creation; and (iv) preservation of high quality, at-risk wetlands;

b. Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible, and shall achieve equivalent or greater wetland ecological functions;

c. No overall net loss will occur in wetland functions and values; and

d. The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

D. Wetland Replacement Ratios.

1. Where wetlands alterations are permitted by the administrator, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors, and projected success of restoration or creation.

2. The following acreage replacement ratios shall be applied:

**Table 26.60.028(D) Mitigation Ratios for Eastern Washington[1]**

| Category and Type of Wetland Impacts | Reestablishment or Creation | Rehabilitation Only[2] | Reestablishment or Creation (R/C) and Rehabilitation (RH)[2] | Reestablishment or Creation (R, C) and Enhancement (E)[2] | Enhancement Only[2] |
|---|---|---|---|---|---|
| All Category IV | 1.5:1 | 3:1 | 1:1 R/C and 1:1 RH | 1:1 R/C and 2:1 E | 6:1 |
| All Category III | 2:1 | 4:1 | 1:1 R/C and 2:1 RH | 1:1 R/C and 4:1 E | 8:1 |
| Category II | 3:1 | 6:1 | 1:1 R/C and 4:1 RH | 1:1 R/C and 8:1 E | 12:1 |
| Category I based on score for functions | 4:1 | 8:1 | 1:1 R/C and 6:1 RH | 1:1 R/C and 12:1 E | 16:1 |
| Category I natural heritage site | Not considered possible[3] | Case-by-case | R/C not considered possible[3] | R/C not considered possible[3] | Case-by-case |

[1] Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment. See Table 1b, Wetland Mitigation in

Washington State – Part 1: Agency Policies and Guidance – Version 1, (Ecology Publication No. 06-06-011a, Olympia, WA, March 2006 or as revised).

[2] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[3] Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Reference:

Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication No. 06-06-011a. Olympia, WA.

> 3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication No. 06-06-011a-b, Olympia, WA, March 2006, or as revised), the administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication No. 11-06-015, August 2012, or as revised).

**26.60.029 Wetland mitigation plan requirements.**
Where it is determined by the ~~city~~ Administrator that compensatory wetland mitigation is required or appropriate, a mitigation plan shall be prepared consistent with the provisions below and shall also meet the minimum requirements contained in the Wetlands Guidance for ~~and CAO Guidance for Small Cities, Eastern Washington version (dated January 2010, revised October 2012,~~ CAO Updates: Eastern Washington, June 2016., Publication No. 16-06-002 and as amended in the future~~)~~. The purpose of the plan is to prescribe mitigation to compensate for impacts to the wetland functions, values, and acreage as a result of the proposed action. This plan shall consider the chemical, physical, and biological impacts on the wetland system using a recognized wetlands assessment methodology and/or best professional judgment. The mitigation plan shall be prepared in two phases, a conceptual phase and a detailed phase.

A. Conceptual Plan – Standards and Criteria. The applicant shall prepare a conceptual mitigation plan for submission to the ~~city~~ Administrator at a pre-mitigation conference. The conceptual mitigation plan shall include:

1. General goals of the mitigation plan;

2. A review of literature or experience to date in restoring or creating the type of wetland proposed;

3. Location of proposed wetland compensation area;

4. General hydrologic patterns on the site following construction;

5. Nature of compensation, including wetland types (in-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;

6. A conceptual maintenance plan; and

7. A conceptual monitoring and contingency plan.

B. Detailed Plan – Standards and Criteria. Following acceptance of the conceptual mitigation plan by the ~~city~~ Administrator, the applicant will prepare a detailed mitigation plan. Each detailed plan shall contain, at a minimum, the following seven components, and shall be consistent with the standards in RMC 26.60.023 through 26.60.028:

~~1. A clear statement of the objectives of the mitigation. The goals of the mitigation plan should be stated in terms of the new wetland functions and values compared to the functions and values of the original wetland.~~

~~2. Qualitative and quantitative standards for success of the project, including hydrologic characteristics (water depths, water quality, hydroperiod/hydrocycle characteristics, flood storage capacity); vegetative characteristics (community types, species composition, density, and spacing); faunal characteristics, and final topographic elevations.~~

~~3. An ecological assessment of the wetland values and wetland buffers that will be lost as a result of the activities, and of the replacement wetlands and buffers, including, but not limited to, the following:~~

~~a. Acreage of project;~~

~~b. Existing functions and values;~~

~~c. Sizes of wetlands, wetland buffers, and areas to be altered;~~

~~d. Vegetative characteristics, including community type, areal coverage, species composition, and density;~~

~~e. Habitat type(s) to be enhanced, restored, or created; and~~

f. Dates for beginning and completion of the mitigation project, and sequence of construction activities.

4. A statement of the location, elevation, and hydrology of the new site, including the following:

a. Relationship of the project to the watershed and existing water bodies;

b. Topography of the site using the smallest readily available intervals, preferably one-foot contour intervals but two-foot is acceptable;

c. Water level data, including depth and duration of seasonally high water table;

d. Water flow patterns;

e. Grading, filling and excavation, including a description of imported soils;

f. Irrigation requirements, if any;

g. Water pollution mitigation measures during construction;

h. Areal coverage of planted areas to open water areas (if any open water is to be present); and

i. Appropriate buffers.

5. A planting plan describing what will be planted, and where and when the planting will occur, as follows:

a. Soils and substrate characteristics;

b. Specify substrate stockpiling techniques; and

c. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements.

6. A monitoring and maintenance plan consistent with RMC 26.60.031.

a. Specify procedures for monitoring and site maintenance, including control of invasive species; and

b. Submit monitoring reports to the city.

7. A contingency plan consistent with these regulations.

8. A detailed budget for implementation of the mitigation plan, including monitoring, maintenance, and contingency phases.

9. A guarantee, in the form of a bond or other security device in a form and amount acceptable to the city attorney, assuring that the work will be performed as planned and approved, consistent with these regulations and including monitoring, maintenance and contingency.

1. A clear statement of the objectives of the mitigation. The goals of the mitigation plan should be stated in terms of the new wetland functions and values compared to the functions and values of the original wetland. Objectives shall include:

a. Qualitative and quantitative standards for success of the project, including hydrologic characteristics (water depths, water quality, hydroperiod/hydrocycle characteristics, flood storage capacity); vegetative characteristics (community types, species composition, density, and spacing); faunal characteristics, and final topographic elevations.

b. An ecological assessment of the wetland values and wetland buffers that will be lost as a result of the activities, and of the replacement wetlands and buffers, including but not limited to the following:

i. Acreage of project;

ii. Existing functions and values;

iii. Sizes of wetlands, wetland buffers, and areas to be altered;

iv. Vegetative characteristics, including community type, areal coverage, species composition, and density;

v. Habitat type(s) to be enhanced, restored, or created; and

vi. Dates for beginning and completion of the mitigation project, and sequence of construction activities.

2. A statement of the location, elevation, and hydrology of the new site, including the following:

a. Relationship of the project to the watershed and existing water bodies;

b. Topography of site using the smallest readily available intervals, preferably one-foot contour intervals but two-foot are acceptable;

c. Water level data, including depth and duration of seasonally high water table;

d. Water flow patterns;

e. Grading, filling and excavation, including a description of imported soils;

f. Irrigation requirements, if any;

g. Water pollution mitigation measures during construction;

h. Areal coverage of planted areas to open water areas (if any open water is to be present); and

i. Appropriate buffers.

3. A planting plan, describing what will be planted, and where and when the planting will occur, as follows:

a. Soils and substrate characteristics;

b. Specify substrate stockpiling techniques; and

c. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements.

4. A monitoring and maintenance plan, consistent with RMC 26.60.031.

a. Specify procedures for monitoring and site maintenance including control of invasive species; and

b. Submit monitoring reports to the administrator.

5. A contingency plan, consistent with these regulations.

6. A detailed budget for implementation of the mitigation plan, including monitoring, maintenance and contingency phases.

7. A guarantee, in the form of a bond or other security device in a form and amount acceptable to the city attorney, assuring that the work will be performed as planned and approved, consistent with these regulations, including monitoring, maintenance and contingency.

**26.60.030~~Performance~~ Design standards for wetlands mitigation planning.**

A. The following performance standards shall be incorporated into mitigation plans submitted to the city of Richland:

1. Plants should be indigenous to the region (not introduced or foreign species);

2. Plants should be adaptable to a broad range of water depths;

3. Plants should be commercially available or available from local sources;

4. Plant species high in food and cover value for fish and wildlife are recommended, when possible;

5. Plants should be mostly perennial species;

6. Avoid committing significant areas of the site to species that have questionable potential for successful establishment;

7. Plant selection must be approved by a wetlands biologist/ecologist;

8. Water depth is not to exceed six and one-half feet (two meters);

9. The grade or slope that water flows through the wetland is not to exceed six percent;

10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

12. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans;

13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

14. Minimum buffer widths should extend from the wetland boundary in accordance with buffer requirements in Table 26.60.024(D), Wetland Buffer Widths, for the proposed category rating of the wetland that will be created;

15. The planting plan must be approved by the ~~community development director~~ Administrator, or ~~designee, or consultant~~ qualified professional acting on behalf of the city;

16. Stockpiling should be confined to upland areas, and contract specifications should limit stockpile durations to less than four weeks~~;~~. Any area designated as open space shall not be used to stockpile material;

17. Planting instructions which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

18. Apply controlled release fertilizer, if reasonable and prudent, at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process);

19. Install an irrigation system, if necessary, for initial establishment period; and

20. Construction specifications and methods must be approved by a qualified ~~consultant~~ professional and the ~~city~~ Administrator.

B. On completion of construction, the wetland mitigation project must be signed off by the applicant's qualified ~~consultant~~ professional and the ~~city~~ Administrator. Signature will indicate that the construction has been completed as planned and all design elements have been fully and correctly implemented. If there have been changes in the implementation of the plan, a written explanation from the ~~consulting biologist~~ qualified professional must be included.

**26.60.031 Wetland monitoring program and contingency plan.**

A. A monitoring program shall be implemented to determine the success of the mitigation project and any necessary corrective actions. This chapter shall determine if the original goals and objectives are being met.

B. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable security device is required to assure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years. The ~~city~~ Administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.

~~C. During monitoring, scientific procedures for establishing the success or failure of the project must be used.~~

~~D. For vegetation determinations, permanent sampling points shall be established.~~

~~E. Shrub and tree vegetation success can be defined as 80 percent survival of the original number of plants planted, with the following beginning density of vegetation planted: trees planted on 10-foot centers, with shrubs planted on three- to five-foot centers underneath and between the trees. Percent cover goals that mimic local natural healthy reference wetlands can be established for percent cover goals at year five as an alternative to percent survival goals.~~

~~F. Submit monitoring reports on the current status of the mitigation project to the city. The reports are to be prepared by a qualified consultant and reviewed by the city's consultant and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:~~

~~1. At the time of construction;~~

~~2. Thirty days after planting;~~

~~3. Early in the growing season of the first year;~~

~~4. End of the growing season of the first year;~~

~~5. Twice the second year; and~~

~~6. Annually thereafter.~~

~~G. Monitor for five growing seasons. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.~~

~~H. If necessary, correct for failures in the mitigation project.~~

~~I. Replace dead or undesirable vegetation with appropriate plantings based on the approved planting plan or RMC 26.60.029.~~

~~J. Repair damages caused by erosion, settling, or other geomorphological processes.~~

~~K. Redesign mitigation project (if necessary) and implement the new design.~~

~~L. Correction procedures shall be approved by a qualified consultant and the city.~~

C~~1~~. During monitoring, scientific procedures for establishing the success or failure of the project must be used and shall be identified in the monitoring plan;

D~~2~~. For vegetation determinations, permanent monitoring transects or plots shall be established that adequately represent the compensatory mitigation site;

E~~3~~. Vegetative success in the compensatory mitigation wetland will be defined as:

1~~a~~. An average density of at least four plants per 100 square feet in the scrub-shrub and forested communities in year one;

2~~b~~. A cover of native wetland trees and shrubs combined (planted and volunteer) of at least 10 percent in year three; 25 percent in year five; 40 percent in year seven; 50 percent in year 10;

3~~c~~. A cover of native wetland herbaceous plant species (planted and volunteer) of at least 25 percent in year five; 40 percent in year seven and 50 percent in year 10;

4~~d~~. Nonnative invasive species must be controlled per site-specific specifications and shall not exceed the maximum amount as identified in the approved monitoring plan;

5~~e~~. Buffer vegetation shall be maintained in the amount as identified in the approved monitoring plan;

F~~4~~. Submit monitoring reports on the current status of the mitigation project to the administrator. The reports are to be prepared by a qualified professional and reviewed by the administrator and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced for years one, two, three, four, seven and 10. Monitoring reports shall incorporate hydrology standards to ensure the required wetland habitat and buffer areas are established and functioning and shall detail the minimum number of days during the growing season when soils must remain inundated or saturated to the ground surface;

G~~5~~. Monitor for 10 growing seasons. If the mitigation goals are obtained within the initial five-year period, no further monitoring will be required;

H~~6~~. If necessary, correct for failures in the mitigation project;

I~~7~~. Replace dead or undesirable vegetation with appropriate plantings, based on the approved planting plan or RMC 26.60.030;

J~~8~~. Repair damages caused by erosion, settling, or other geomorphological processes;

K~~9~~. Redesign mitigation project (if necessary) and implement the new design;

L10. Correction procedures shall be approved by a qualified professional and the administrator; and

M11. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract, a conservation easement or similar legal instrument as approved by the administrator to ensure the future protection of the mitigation site.

**26.60.032 Repealed.**

~~**26.60.032 Unauthorized alterations and enforcement.**~~

~~A. When a wetland or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a "stop-work" order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.~~

~~B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared by the owner or responsible party 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 subsection (C) of this section. 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.~~

~~C. 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:~~

~~1. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.~~

~~2. The historic soil types and configuration shall be restored to the extent practicable.~~

~~3. 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.~~

~~4. Information demonstrating compliance with other applicable provisions of this chapter shall be submitted to the administrator.~~

~~D. Site Investigations. The administrator is authorized to make site inspections and take such actions as 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.~~

~~E. Penalties. See RMC 26.60.084(B).~~

~~F. If the wetland affected cannot be restored, money from any associated 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 others to optimize the effectiveness of the restoration action.~~

## Article III. Fish and Wildlife Habitat Conservation Areas

### 26.60.040 ~~Exemption~~ Exceptions from fish and wildlife habitat conservation regulations.

A. See RMC ~~22.10.360~~26.60.080 for general ~~exemptions~~ exceptions to all critical areas.

~~A.~~B. The following activities shall not be ~~exempt from~~subject to the provisions of this chapter related to fish and wildlife habitat, provided they are conducted using best management practices:

1. Activities involving artificially created habitat, including, but not limited to, grass-lined swales, irrigation and drainage ditches, and detention facilities such as reservoirs, ponds, and landscape features, except for habitat conservation areas created as mitigation.

~~B~~C. Notwithstanding the ~~exemption~~ exceptions provided by this section, any otherwise ~~exempt~~ excepted activities occurring in or near critical habitat conservation areas shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize potential habitat impacts and shall consider the timing of excepted work to minimize disturbances to wildlife including disturbance to migratory bird nesting sites.

### ~~26.60.041 Fish and wildlife habitat inventory maps.~~

~~The approximate location and extent of habitat areas within the city of Richland's planning area are shown on the maps adopted as part of this program, as provided in the city's SMP inventory, analysis and characterization report. These maps shall be used as a general guide only for the assistance of property owners and other interested parties as boundaries are generalized. The actual type, extent, and boundaries of habitat areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this program. In the event of any conflict between the habitat location or type shown on the city of Richland's maps and the criteria or standards of this program, the criteria and standards resulting from the field investigation shall control.~~

### 22.60.041 Fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include the following:

1. Areas where state or federal designated endangered, threatened, and critical species have a primary association.

a. Federal designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.

b. State designated endangered, threatened and critical species are those fish, wildlife and plant species native to the state of Washington identified by the State Department of Fish and Wildlife and/or State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The state of Washington's Department of Fish and Wildlife and/or Natural Heritage Program maintains the most current listings and should be consulted as necessary for current state listing status.

2. State priority habitats and areas associated with state priority species.

a. State of Washington priority habitats and species are considered priorities for conservation and management. The state of Washington's Department of Fish and Wildlife should be consulted for current listing of priority habitats and species.

3. Habitats and species of local importance. The city of Richland hereby adopts by reference those priority habitats and species considered priorities for conservation and management identified by the State Department of Fish and Wildlife and State of Washington Natural Heritage Program as now exist or as may be amended.

4. In addition to the priority habitats and species recognized by WDFW and/or State of Washington Natural Heritage Program, a process is provided for listing other habitats and species that are important locally to the people of Richland. This action may be initiated at the request of the Washington State Department of Fish and Wildlife, other government agency, city staff, nonprofit organization or interested citizen. Any such request shall be in writing and shall include:

a. The common and scientific name for a species under consideration;

b. Habitat location on a map (scale 1:24,000);

c. Demonstrate a need for special consideration based upon best available science and considering:

i. Declining or increasing population;

ii. Sensitivity to habitat manipulation; or

iii. Commercial or game value or other special value, such as public appeal;

d. Habitat management recommendations, including potential uses and restrictions of the habitat conservation areas, seasonally critical areas and other guidelines necessary for the protection of the species;

e. Reasons for the species/habitat to be designated;

f. Name and address of the nominator, along with a list of property owners and mailing addresses for each property mapped as containing habitat and/or species;

g. Other supporting documentation (as determined by the administrator);

h. SEPA checklist;

i. Fee as established by the city of Richland fee schedule.

Submitted proposals shall be reviewed by city staff as a Type IV legislative action pursuant to RMC 19.20.010(D)(2) and Chapter 19.90 RMC. Suggested amendments to this section of the critical areas regulations shall result in amendment no more often than once each calendar year with the deadline for submittal being January 31st. Copies of the proposal shall be submitted to WDFW and/or other local, state or federal agencies or experts for comments and recommendations regarding accuracy of the data and effectiveness of proposed management strategies as part of the public comment period. Approved nominations will be designated priority habitats/species as appropriate and will be given all protection under this chapter afforded other priority habitats and species;

5. The areas listed as a national wildlife refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;

6. The Yakima River Delta area, including Lake Wallula wildlife habitat conservation areas currently managed by the U.S. Army Corps of Engineers, the Chamna Natural Preserve, Bateman Island;

7. The Hanford Islands in the Columbia River managed by the U.S. Fish and Wildlife Service;

8. Amon Creek Natural Preserve;

9. Badger Mountain Natural Preserve;

10. Category I wetlands as defined in RMC 26.60.023;

11. State nature area preserves or natural resource conservation areas and state wildlife areas;

12. Documented habitat, other than accidental presence, of threatened or endangered species;

13. Documented habitat, other than accidental presence, of regional or national significance for migrating birds;

14. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

15. Waters of the state;

16. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

B. Fish and wildlife habitat conservation areas are intended to:

1. Create a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;

2. Limit the level of human activity within such areas that is appropriate for certain areas and habitats, including presence of roads and level of recreation type (passive or active recreation);

3. Protect riparian ecosystems including potential for restoring lost or impaired salmonid habitat;

4. Evaluate land uses that may negatively impact these areas, or conversely, that may contribute positively to their function;

5. Establish buffer zones around these areas to separate incompatible uses from habitat conservation areas;

6. Establish or enhance nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.

**26.60.042. Fish and wildlife habitat conservation ~~buffer~~ area~~s~~ buffers.**

A. The establishment of buffer areas shall be required for regulated activities in or adjacent to fish and wildlife habitat conservation areas including riparian areas and habitat areas located upland and within the shoreline jurisdiction. ~~Buffer~~Buffers shall consist of an undisturbed area of native vegetation established to protect the integrity, functions, and values of the affected habitat. Enhancement of buffers may be required if a portion of the buffer has been cleared, or if tree cover is substantially less than a native climax community.

B. ~~The following buffer widths are established~~: Width of riparian corridors shall be in accordance with buffer widths suggested by BAS, including WDFW publication Riparian Ecosystems, Volume 2: Management Recommendations, May 2018, or as revised. Riparian corridors shall also meet the minimum requirements as established in RMC Title 26(Table 26.60.042) and wetland buffer requirements as established in RMC 26.60.024."

**Table 26.60.042. Riparian Buffer Width**

| Environment Designation (Regulatory Reaches) ~~Regulatory Reach~~ (See Environment Designation with Regulatory Reaches Map) | Minimum Riparian Buffer Width ~~Riparian Buffer Width~~ (Feet)[1, 2, 4] |
|---|---|
| ~~A, C, I, T~~ | ~~50~~ |
| ~~B, U and all other natural environment designation areas within various regulatory reaches except Reach Q~~ | ~~Entire shoreline jurisdiction~~ |

| Environment Designation (Regulatory Reaches) ~~Regulatory Reach~~ (See Environment Designation with Regulatory Reaches Map) | Minimum Riparian Buffer Width ~~Riparian Buffer Width~~ (Feet)[1, 2, 4] |
|---|---|
| ~~D, N, O, P~~ | ~~75 except where roadway, canal, paved trail or parking area encroaches, and then waterward edge of facility maintenance area, as applicable~~ |
| ~~E, F~~ | ~~100~~ |
| ~~G, I~~ | ~~75 except where roadway, canal, levee, paved trail or parking area encroaches, and then waterward edge of facility maintenance area, as applicable~~ |
| ~~H, J, K~~ | ~~100 except where roadway, canal, levee, paved trail or parking area encroaches, and then waterward edge of facility maintenance area, as applicable~~ |
| ~~L, Q, S~~ | ~~Waterward edge of existing levee, paved trail and/or parking maintenance area, as applicable~~ |
| ~~M~~ | ~~50 or waterward edge of existing levee, paved trail and/or parking maintenance area, as applicable~~ |
| ~~R~~ | ~~From the OHWM to the federal/private property boundary line[3]~~ |
| Natural (including J, Q, U, natural parts of K, S, island i.e., natural part of D) | Entire shoreline jurisdiction |
| Recreation Conservancy (A, B, F, H, I, recreation conservancy parts of K, L, M,N) | Entire shoreline jurisdiction |
| Split Recreation Conservancy/Residential (Part of S) | Entire shoreline jurisdiction (south of Battelle Blvd) |
| Split Recreation Conservancy/Residential (Part of S) | Waterward of existing private property boundary that is landward of the pedestrian path (north of Battelle Blvd) |
| Rural (C, D except for the island, E) | 200 |
| Industrial Conservancy (T) | 200 |
| Residential (Part of P) | Waterward of levee |
| Residential (R) | 200 or from the OHWM to the federal/private property boundary line[3] (~75 ft) |
| Residential (part of G) | 200 or waterward of current private property boundary |
| Recreation Conservancy (part of G) | Entire shoreline jurisdiction |
| Waterfront (O, waterfront part of L) | 100 |
| Recreation (P, recreation part of M, N) | 200 |

(1) Measured from the OHWM or top of bank, as applicable.
(2) Accompanied by other ~~sensitive~~ critical area protections and stormwater management measures, as applicable.
(3) Administrative buffer adjustments do not apply. Buffer can be widened, if applicable, or other protection provisions related to geologic hazards can be applied.
(4) See RMC 26.60.080 for exceptions.

C. Buffers required for fish and wildlife habitat protection when upland of riparian areas~~Buffers~~ shall also be measured, on a horizontal plane, from the OHWM as delineated by a qualified consultant. Required buffer widths for non-riparian habitat areas shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. These buffers shall be determined by the city based on information in the ~~wildlife report~~ fish and wildlife habitat conservation report supplemented by its own investigations, the sensitivity and value of the habitat areas, the intensity and design of the proposed use, and adjacent uses and activities.

D. Administrative ~~Buffer~~ Adjustments of Fish and Wildlife Habitat Conservation Area Buffers~~.~~

1. The required fish and wildlife habitat conservation area buffer widths, including the riparian buffer widths established in this chapter of the shoreline master program may be modified by the administrator for a development on existing legal lots of record in place at the time of adoption of this program in accordance with the provisions of this section, only where the applicant demonstrates all of the following:

a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property, and no feasible alternative exists;

b. The designated buffer area contains variations in sensitivity to ecological impacts due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation and the buffer is increased adjacent to the higher functioning area of habitat;

c. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;

d. The minimum buffer width at its narrowest point shall not be less than 75 percent of the buffer width established under this program; and

e. The buffer width averaging does not result in a net loss of ecological function.

2. Standard Buffer Reduction. Reductions of up to 25 percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the administrator that a mitigation plan developed by a qualified professional indicates that enhancing the buffer (by removing invasive plants or impervious surfaces~~,~~ and planting native vegetation~~,~~ and ~~or~~ installing habitat features or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer.

3. In-Fill Development. In an effort to facilitate in-fill development in approved plats, the city may approve requests to reduce the standard ~~shoreline~~ fish and wildlife habitat conservation area buffers up to a maximum of 50 percent for a new single-family residence and appurtenant structures in accordance with the following criteria:

a. Where there are single-family residences within 150 feet on either side of the proposed residence in an existing plat, the buffer shall be determined as the greater of one of the following three options: (i) a common line drawn between the nearest corners of the nearest residence; (ii) a common line calculated by the average of the nearest residence's existing buffer; or (iii) a 50 percent reduction of the standard buffer.

b. Where there is only a residence located within 150 feet on one side of the proposed residence in an existing plat, the standard buffer shall be determined as: (i) the greater of a common line drawn between the nearest corner of the nearest residence and the nearest point of the standard buffer on the adjacent vacant lot; (ii) a common line calculated by the average of the nearest residence's setback and the standard buffer for the adjacent vacant lot; or (iii) a 50 percent reduction of the standard buffer.

E. The buffer width stated in subsection (B) of this section shall be increased when the ~~qualified consultant~~administrator determines, based upon a site-specific habitat analysis by a qualified professional, that impacts on the habitat from a proposed development can only be mitigated by a greater buffer width. The standard ~~habitat~~ riparian buffer width shall be increased:

1. When the adjacent land is susceptible to severe erosion, and erosion control measures will not effectively prevent adverse habitat impacts; or

2. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

3. When the ~~wetland~~area provides habitat for a species that is particularly sensitive to disturbance (listed by the federal government or the state as endangered, threatened, candidate, monitored or documented priority species or habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees), the width of the buffer should be increased to provide adequate protection for the species based on its particular life-history needs; or

4. When the minimum buffer for a habitat extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:

a. The minimum buffer for that particular habitat; or

b. Twenty-five feet beyond the point where the slope becomes 25 percent or less.

F. Low impact land uses and activities which are consistent with the purpose and function of the ~~habitat~~ buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved. Examples of uses and activities which may be permitted in appropriate cases include pervious pedestrian trails, viewing platforms, ~~stormwater management facilities such as grass-lined swales~~ and utility easements.

**26.60.043 Fish and wildlife habitat conservation area inventory maps.**
To determine the location and extent of fish and wildlife habitat conservation areas, the city shall use best available science, including current information contained in priority habitats and species maps as maintained by the Washington State Department of Fish and Wildlife. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent, and boundaries of habitat conservation areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this article. In the event of any conflict between the habitat location or type shown on maps and the criteria or standards of this article, the criteria and standards resulting from the field investigation shall control.

Recovery plans and management recommendations for many of these species are available from the United States Fish and Wildlife Service, the National Marine Fisheries Service and the Washington State Department of Fish and Wildlife. Additional information is also available from the Washington State Department of Natural Resources, Natural Heritage Program, and Aquatic Resources Program.

It is also possible that unmapped areas may include priority habitats or species (PHS), endangered, threatened or critical (ETS) species, or habitats and species of local importance (HSLI). If such a species is known to exist within an unmapped area, the type, extent and boundaries of this area shall be determined by a qualified professional.

**26.60.044 Requirements for fish and wildlife habitat conservation area reports.**
When development is proposed within a fish and wildlife habitat conservation area or its buffer, or where development is proposed to be located adjacent to a fish and wildlife habitat conservation area or its buffer or close enough to the FWHCA so as to likely impact critical area ecosystem functions and values, a habitat conservation report shall be prepared consisting of the following:

A. The report shall be prepared by a qualified professional using the best available science;

B. The area addressed in any report for a fish and wildlife habitat conservation area shall include the project area and adjacent lands within 300 feet of the project boundaries to account for potential buffers that may not be accurately mapped at the time of application. Further the report shall identify all habitat conservation areas, shorelines, floodplains, other critical areas and related buffers;

C. A habitat conservation report shall include an assessment to evaluate the presence or absence of priority habitat. At a minimum the habitat assessment shall include:

1. Detailed description of vegetation on and adjacent to the project area, including the existence or nonexistence of plant species native to the state of Washington identified by the State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats;

2. Identification of any priority species and habitats (PHS) or any endangered, threatened, critical, candidate, or monitored species and any habitat or species of local concern that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the protected habitat or use of the site by the species;

3. A discussion of any federal, state or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

4. A discussion of measures, including avoidance, minimization and mitigation proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with RMC 26.60.020 (mitigation sequencing);

5. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs;

6. When warranted, the administrator may require detailed surface and subsurface hydrologic features both on and adjacent to the site;

D. Habitat conservation area reports shall be forwarded to the Washington Department of Fish and Wildlife and local Native American Indian tribes to provide them with an opportunity to comment on the adequacy and accuracy of the report;

E. The administrator may waive the requirement for the preparation of a habitat conservation area report upon a determination that by reason of previous development that the proposed project site does not provide functional habitat. Such waiver shall be made in writing and a copy shall be provided to the Washington State Department of Fish and Wildlife.

~~**26.60.044Fish and wildlife habitat performance standards and incentives.**~~
~~A. The performance standards and criteria contained in this section shall be incorporated into plans submitted for regulated activities and shall:~~

~~1. Consider habitat in site planning and design;~~

~~2. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas;~~

~~3. Integrate retained habitat into open space and landscaping, consistent with the provisions of all open space and landscaping requirements;~~

~~4. Consolidate habitat and vegetated open space in contiguous blocks where feasible;~~

~~5. Locate habitat contiguous to other habitat areas, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;~~

~~6. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;~~

~~7. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;~~

~~8. Remove and/or control any noxious or undesirable species of plants and animals;~~

~~9. Preserve significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;~~

~~10. Buffers shall be preserved and shall be surveyed, staked, and fenced before any constructed work, including grading and clearing, may take place on the site; and~~

~~11. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction.~~

~~B. A vegetation management plan shall be submitted consistent with the requirements, goals, and standards of this program. The plan shall reflect the report prepared pursuant to RMC 26.20.040. Any required mitigation, including supplemental buffer plantings, shall be guaranteed by a bond or other acceptable security device to assure successful establishment, including an appropriate monitoring period. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years. The city may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.~~

~~C. As an incentive to encourage preservation of secondary habitat as defined in this program, the net amount of landscaping required by the city of Richland may be reduced by one-quarter acre for each one acre of secondary habitat and buffer preserved on the site; however, that amount cannot exceed 50 percent of the amount of required landscaping. The reduction shall be calculated on the basis of square feet of habitat preserved or enhanced and square feet required. Habitat and habitat buffer that is enhanced by the applicant may also qualify for this reduction. Preservation of secondary habitat shall be by execution of an easement or other protective device acceptable to the city of Richland.~~

**26.60.045 Fish and wildlife habitat conservation area – Performance standards.**
Development or any regulated activity occurring within a designated habitat conservation area or within its respective protection buffer, or development or any regulated activity proposed to occur adjacent to, or close enough to, a habitat conservation area so as to likely impact critical area ecosystem functions and values, shall only be permitted in accordance with the conditions of an approved habitat

conservation area report. Such report shall be based on the following standards using the best available science:

A. Consider habitat in site planning and design;

B. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat conservation areas, including use of bird-friendly building design and use of dark sky lighting standards;

C. Integrate retained habitat into open space and native plantings, consistent with the provisions of all open space and landscaping requirements;

D. Activity within or close to a habitat conservation area shall not result in the degradation of the functions and values of the habitat;

E. Nonindigenous species shall not be introduced into a habitat conservation area;

F. Contiguous corridors through a project area shall be maintained. Measures necessary to mitigate impacts within a habitat conservation area shall attempt to achieve contiguous functioning habitat corridors in order to minimize the isolating effects of development on habitat;

G. Identify habitat contiguous to other habitat conservation areas, open space or landscape areas to contribute to a continuous system or corridor that provides connections to adjacent habitat conservation areas and allows movement of wildlife;

H. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat conservation areas;

I. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;

J. Width of riparian corridors shall be in accordance with ~~buffer widths suggested by BAS, including WDFW publication Riparian Ecosystems, Volume 2: Management Recommendations, May 2018, or as revised. Riparian corridors shall also meet the minimum requirements as established in RMC Title 26 and wetland buffer requirements as established in~~ RMC ~~22.10.110~~26.60.042;

K. Activities within a habitat conservation area shall be conditioned as identified in the habitat conservation area report to avoid, minimize, or mitigate potential adverse impacts. Conditions shall include protective buffers based on the State of Washington Department of Fish and Wildlife management recommendations for Washington's priority species modified for local conditions and the recommendations of the Department of Fish and Wildlife biologists and may include, but are not limited to, the following measures:

1. Establishment of undisturbed habitat conservation areas;

2. Staking of undisturbed habitat conservation areas prior to any construction, including clearing, grading and filling taking place on or adjacent to the site;

3. Fencing of undisturbed habitat conservation areas in a manner consistent with the provisions of RMC 26.60.025 (H);

4. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

5. Preservation of critically important vegetation;

6. Supplemental planting of native tree and shrub cover;

7. Removal and/or control of any noxious or undesirable species of plants and animals;

8. Preservation of significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;

9. Replanting of disturbed areas and/or areas where noxious weed species were removed with native vegetation types, including ongoing plans for weed control and irrigation as appropriate;

10. Limitation of access to an identified habitat area, including fencing to deter unauthorized access;

11. Seasonal restriction on construction activities;

12. Implementation of a schedule for periodic review of completed mitigation measures for a specified time period;

13. Posting of a bond or other financial surety to ensure completion and success of proposed mitigation measures. Such bond or other security device shall be required to assure successful establishment of required planting for an appropriate monitoring period. The amount of the bond or other security device shall equal 125 percent of the cost of the mitigation project for a period of five years. The administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.

~~26.60.045 Fish and wildlife habitat conservation area alteration.~~

~~In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in this section (RMC 22.10.21026.60.044).~~

**26.60.043~~5~~6 Fish and wildlife habitat conservation area alteration.**

A. Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable. Mitigation actions by an applicant or property owner shall occur in accordance with RMC 26.20.020, Ecological functions, no net loss, including the specified mitigation sequence. ~~the following preferred sequence:~~

B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards, and criteria of this section. ~~Mitigation shall meet the criteria of RMC 26.20.020, Ecological functions, no net loss, including the specified mitigation sequence. In an individual case, these actions may include consideration of alternative site plans and~~

~~layouts, or reductions in the density or scope of the proposal.~~ In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in RMC 26.60.040.

~~C. Alteration of habitat and/or their buffers may be permitted by the city subject to the following standards:~~

~~1. Critical Habitat. Alterations of critical habitat shall be avoided, subject to the reasonable use provisions of this shoreline program.~~

~~2. Secondary Habitat. Alterations of secondary habitat may be permitted; provided, that the applicant mitigates adverse impacts consistent with the performance standards and other requirements of this shoreline program~~

~~**26.60.044Fish and wildlife habitat performance standards and incentives.**~~
~~A. The performance standards and criteria contained in this section shall be incorporated into plans submitted for regulated activities and shall:~~

~~1. Consider habitat in site planning and design;~~

~~2. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas;~~

~~3. Integrate retained habitat into open space and landscaping, consistent with the provisions of all open space and landscaping requirements;~~

~~4. Consolidate habitat and vegetated open space in contiguous blocks where feasible;~~

~~5. Locate habitat contiguous to other habitat areas, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;~~

~~6. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;~~

~~7. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;~~

~~8. Remove and/or control any noxious or undesirable species of plants and animals;~~

~~9. Preserve significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;~~

~~10. Buffers shall be preserved and shall be surveyed, staked, and fenced before any constructed work, including grading and clearing, may take place on the site; and~~

~~11. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction.~~

~~B. A vegetation management plan shall be submitted consistent with the requirements, goals, and standards of this program. The plan shall reflect the report prepared pursuant to RMC 26.20.040. Any required mitigation, including supplemental buffer plantings, shall be guaranteed by a bond or other acceptable security device to assure successful establishment, including an appropriate monitoring period. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years. The city may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.~~

~~C. As an incentive to encourage preservation of secondary habitat as defined in this program, the net amount of landscaping required by the city of Richland may be reduced by one-quarter acre for each one acre of secondary habitat and buffer preserved on the site; however, that amount cannot exceed 50 percent of the amount of required landscaping. The reduction shall be calculated on the basis of square feet of habitat preserved or enhanced and square feet required. Habitat and habitat buffer that is enhanced by the applicant may also qualify for this reduction. Preservation of secondary habitat shall be by execution of an easement or other protective device acceptable to the city of Richland.~~

## Article IV. ~~Geologic Hazard~~Geologically Hazardous Areas

### 26.60.050 Identification and definition.

A. ~~Geologic hazard areas~~ Geologically hazardous areas identification and designation shall be consistent with the minimum guideline classifications established in WAC 365-190-080(4), which include any future amendments to the code. Areas that are susceptible to one or more of the following types of hazards shall be classified as a ~~geologic hazard area~~geologically hazardous area:

1. Erosion hazard;

2. Landslide hazard;

3. Seismic hazard; and

4. Mine hazard.

B. Erosion Hazard Areas. Those areas that are identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.

C. Landslide Hazard Areas. Those areas that are 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. Landslide hazard areas include, but are not limited to, the following types of areas:

1. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;

2. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

3. Areas with all three of the following characteristics:

a. Areas with slope steeper than 15 percent;

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage;

4. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

5. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

6. Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

7. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;

8. Areas that show evidence of, or on, an active alluvial fan presently or potentially subject to inundation by debris flows or catastrophic flooding; or

9. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 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 10 feet of vertical relief.

D. Seismic Hazard Areas. Those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. 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) magnitude of an earthquake; (2) distance from the source of an earthquake; (3) type of thickness of geologic materials at the surface; and (4) type of subsurface geologic structure.

E. Mine Hazard Areas. Those areas underlain by, adjacent to, or affected by mine working areas as designated by the Washington State Department of Natural Resources.

**26.60.051 Applicability to geological hazards.**
The provisions of this program shall apply to any activity that occurs in or within 200 feet of a ~~geologic hazard area~~geologically hazardous area unless otherwise exempt. These activities include, but are not limited to, the following:

A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

B. Dumping, discharging or filling with any material;

C. Driving piling or placing obstructions;

D. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure which has an adverse effect on a ~~geologic hazard area~~geologically hazardous area; destroying or altering vegetation through clearing or harvesting; and any project permit established in Chapter 19.20 RMC.

**26.60.052 ~~Geologic hazard~~ Geologically hazardous areas inventory maps.**
The approximate location and extent of ~~geologic hazard areas~~ geologically hazardous areas within the city of Richland's planning area are shown on the ~~Sensitive~~ Critical areas maps adopted as part of this program, as provided in the city's SMP inventory, analysis and characterization report. These maps should be used as a general guide only for the assistance of property owners and the city of Richland to identify and designate ~~geologic hazard~~geologically hazardous areas.

**26.60.053 Preliminary assessment.**
A. The ~~city of Richland~~ administrator shall conduct a preliminary assessment of the proposed activity. The preliminary assessment shall consist of reviewing geologic hazard inventory maps as provided in the city's SMP inventory, analysis and characterization report, conducting an on-site evaluation, and, if necessary, consulting with state and/or federal agencies to determine whether there is reasonable evidence that a proposed activity is within 200 feet of a ~~geologic hazard area~~geologically hazardous area. In the event there is a disagreement as to whether the activity is within 200 feet of a ~~geologic hazard area~~geologically hazardous area, a geologic report prepared by a qualified ~~consultant~~ professional as defined in Chapter 26.80 RMC shall be required, at the property owner or applicant's expense, to determine this issue.

B. If it is determined that there is reasonable evidence that a proposed activity is within 200 feet of a ~~geologic hazard area~~geologically hazardous area, then geologic reports and studies are required at the property owner or applicant's expense.

**26.60.054 Geologic reports and studies.**
Geologic studies and reports shall comply with the requirements established in RMC 26.60.081(B)(6), Permit process and application requirements.

**26.60.055 Administrative evaluation of geologic reports and studies.**
The ~~city of Richland~~ administrator shall review the geologic reports and studies to determine the significant risks posed by the activity to life and property on and off the project site. The ~~city of Richland~~ administrator may approve, conditionally approve, or

deny an activity, as appropriate, based on the degree to which significant risks are posed to public and private property and to the health and safety of the community. Conditional approval of the activity may include mitigation measures based on the geologic reports and studies. Where potential impacts of the activity cannot be effectively mitigated, or where the risk to public health, safety, and welfare of the community is significant notwithstanding mitigation, the activity shall be denied.

**26.60.056 Assurance.**
The ~~city of Richland~~ administrator may require assurance from the owner or applicant and/or its geologic consultant that the activity creates a minimal risk of danger to life or property on or off the project site. Such assurance may include the following:

A. A letter from the geologic consultant who prepared the required study and report stating that the activity creates a minimal risk of danger to life or property on or off the project site; or

B. A letter from the owner or applicant stating its understanding and acceptance of any risk of injury or damage associated with the activity and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard.

## Article V. Critical Aquifer Recharge Areas Protection

**26.60.057 Identification and definition.**
Critical aquifer recharge areas (CARAs) are defined as those areas having a critical recharging effect on aquifer use for potable water in community systems. CARAs are classified and designated as follows:

A. Those areas designated as "wellhead protection areas" pursuant to WAC 246-290-135(43) and the ground water contribution area in WAC 246-291-~~100(2)(e)~~125. Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either Group A ~~public water supply wells and those~~ or Group B public water supplies ~~wells with a wellhead protection plan filed with the city and/or the Benton-Franklin Health District~~; and

B. Any land identified in the soil survey of Benton County as having high potential for aquifer recharge, as determined by the administrator.

In order to protect the public health and safety, prevent degradation of ground water and for potentially usable potable water, and to provide for regulations that prevent and control risks to the degradation of ground water quality and quantity, development in CARAs shall be subject to the standards described in this article.

**26.60.058 Critical aquifer recharge area maps.**
The approximate location and extent of aquifer recharge areas within the city of Richland's shoreline planning area are shown on the ~~Sensitive~~ Critical areas maps adopted as part of this SMP, as provided in the city's SMP inventory, analysis and characterization report. Wellhead protection areas are shown in the state Department of Health's Source Water Assessment Program mapping. These maps should be used as

a general guide only for the assistance of property owners and the city of Richland to identify and designate critical aquifer recharge areas.

**26.60.059 ~~General exemptions.~~ Exceptions from critical aquifer recharge area regulations.**

The following activities shall ~~be exempt from~~ not be subject to the CARA provisions of this ~~article~~ section, provided they are conducted using best management practices for protecting surface and ground water quality:

A. Single-family residential development;

B. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance;

C. Group A & Group B public water system source development and associated infrastructure;

D. Public water supply aquifer storage and recovery (ASR) facilities;

E. Public water pipelines and supply storage structures; and

F. The following underground storage tank (UST) systems, including any piping connected thereto:

1. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;

2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

3. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

4. Any UST system whose capacity is 110 gallons or less;

5. Any UST system that contains a de minimis concentration of regulated substances;

6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

~~7. Farm or residential UST systems of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);~~

~~8.~~7. UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of 1,100 gallons are subject to the release reporting requirements of WAC 173-360-372;

~~9. On-site domestic septic systems releasing less than 500 gallons of effluent per day and that are limited to a maximum density of one system per one acre;~~

~~10.~~ 8. Any pipeline facility (including gathering lines) regulated under:

~~a.~~i. The Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or

~~b.~~ii. The Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.);

iii. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subsection (F)(8)(i) or (ii) of this section;

~~11.~~ 9. Surface impoundments, pits, ponds, or lagoons;

~~12.~~ 10. Stormwater or wastewater collection systems;

~~13.~~ 11. Flow-through process tanks;

~~14. Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or~~

~~15.~~ 12. Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel), if the storage tank is situated upon or above the surface of the floor.

**26.60.060 Reports and studies.**
Reports for CARAs shall be submitted to the ~~city~~ Administrator by the applicant for a development proposal activity not otherwise ~~exempted~~ excepted as provided in RMC 26.60.059 ~~26.60.059~~ that is proposed on a parcel within an aquifer recharge area. Requirements for a hydrogeologic assessment are found in RMC 26.60.081 ~~Permit process and application requirements.~~

**26.60.061 Performance standards.**
A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer, and that the proposed activity will not adversely affect the recharging of the aquifer.

B. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, Washington State Department of Ecology, and the Benton-Franklin Health District.

C. The proposed activity must be designed and constructed in accordance with existing local, state and federal laws and regulations, and the Stormwater Management Manual for Eastern Washington, as amended (Ecology 2004) for those geographic areas covered under the Eastern Washington Phase II Municipal Stormwater Permit (Ecology 2007) or activities covered under the Ecology General Construction Permit (Ecology 2005), and/or the locally adopted program, as applicable.

**26.60.062 Uses prohibited in critical aquifer recharge areas.**
The following activities and uses are prohibited in CARAs:

A. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, ~~woodwaste~~wood waste, and inert and demolition waste landfills.

B. Underground Injection Wells. Class I, III, and IV wells and underground injection wells that do not comply with Chapter 173-200 or 173-218 WAC~~subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells~~.

C. Mining in critical aquifer recharge areas determined to be highly susceptible or vulnerable in a public water system wellhead protection plan, to include:

1. Metals and hard rock mining;

2. Sand and gravel mining.

D. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade).

E. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances.

F. Other Prohibited Uses or Activities.

1. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and

2. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.

## Article VI. Flood Hazard Areas

**26.60.070 Identification and definition.**
Frequently flooded areas shall be those floodways and associated floodplains designated by the Federal Emergency Management Agency (FEMA) flood hazard classifications as delineated on the most current available Flood Insurance Rate Maps for the city, or as subsequently revised by FEMA, as being within the 100-year floodplain, or those floodways and associated floodplains delineated by a comprehensive flood hazard management plan adopted by the city, as being within the 100-year floodplain or having experienced historic flooding; or channel migration zones (CMZ) identified through mapping provided in the city's SMP inventory, analysis and characterization report. The CMZ is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b).

**26.60.071 Maps and references.**
A. The approximate location and extent of ~~flood hazard areas~~ frequently flooded areas within the city of Richland's planning area are shown on the ~~sensitive~~ critical areas

maps adopted as part of this SMP, including, but not limited to, the most current available FEMA Flood Insurance Rate Maps (FIRM) and channel migration zone (CMZ) mapping provided in the city's SMP inventory, analysis and characterization report. These maps should be used as a general guide only for the assistance of property owners and the city of Richland to identify and designate flood hazard areas.

B. Applicants for shoreline development or modification may submit a site-specific CMZ study if they demonstrate these conditions do not exist on the subject property and the map is not accurate. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

**26.60.072 Protection standards.**
A. All development within frequently flooded areas shall comply with Chapter 23.12 RMC, Floodplain Use District, Chapter 22.16 RMC, Flood Damage Prevention, the city's shoreline master program, the International Building Code regarding structural safeguards to reduce risk to human life, health and property from flooding, and other pertinent ordinances and codes.

B. Any use or development shall not alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.

~~C. CMZs shall be regulated as uses in Chapter 23.12 RMC, Floodplain Use District, and shall apply only to the Yakima River.~~

## Article VII. General Information

**26.60.080 General ~~exemptions~~ exceptions.**
The following activities shall ~~be exempt from~~ not be subject to the provisions of ~~this chapter the provisions of~~ these critical areas requirements, provided they are conducted using best management practices and impacts are minimized:

A. Existing and ongoing agricultural activities as defined in Chapter 26.80 RMC and subject to the provisions of RMC ~~22.10.080(C)(3)~~26.60.021.B.4.

B. Maintenance, operation and reconstruction of existing roads, streets, utilities, and associated structures; provided, that reconstruction of any structures may not increase the impervious area.

C. Normal maintenance, repair and reconstruction of residential or commercial structures; provided, that reconstruction of any structures may not increase the impervious floor area.

D. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and

investigations; provided, that any disturbance of ~~sensitive~~ critical areas shall be the minimum necessary to carry out the work or studies.

E. Educational activities, scientific research, and outdoor recreational activities that will not have a significant effect on the habitat area, including, but not limited to, interpretive fields, bird watching, fishing and hiking.

F. Public agency emergency activities necessary to prevent an immediate threat to public health, safety or property; provided, that retroactive mitigation is required to restore a site to a pre-emergency response condition to ensure no net loss of ecological functions. Retroactive mitigation must occur within the first growing season following completion of the emergency work.

G. Prior to the effective date of the ordinance codifying this chapter, any of the following activities that have met all conditions of approval in a timely manner and are consistent with the reasonable use provisions of this chapter, to include:

1. Complete applications as defined by the appropriate ordinance;

2. Approved preliminary plats; and

3. Development of legally created lots which have been recorded with Benton County.

H. Minor activities not mentioned above and determined by the community development director to pose minimal risk to the public health, safety, and general welfare.

I. The operation, maintenance, or reconstruction of existing canals, waterways, wasteways, drains, reservoirs or other facilities that lie within the boundaries of and are maintained by an irrigation district or company; provided, that any new construction or related activity does not encroach into a critical area.

**26.60.081 Permit process and application requirements.**

A. Preapplication Conference. All applicants are encouraged to meet with the city of Richland's shoreline administrator or his or her representative prior to submitting an application subject to these regulations. The purpose of this meeting shall be to discuss the city of Richland's ~~sensitive~~ critical areas requirements, processes, and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methodology; to identify potential impacts and mitigation measures; and to familiarize the applicant with state and federal programs, particularly those pertaining to wetlands. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city of Richland.

B. Application Requirements. The information required by this section should be coordinated with reporting requirements required by this section for any other ~~sensitive~~ critical area located on the site.

1. Prior to the issuance of a SEPA threshold determination for a proposal, all ~~sensitive~~ critical area reports relevant to the site must be submitted to the city of Richland, if requested, for review by staff if such ~~sensitive~~ critical areas are indicated on any portion of the site. The purpose of the reports is to determine the extent and function of ~~sensitive~~ critical areas where regulated activities are proposed. The reports will also be used by the ~~city of Richland~~ administrator to determine the appropriate implementation of ~~sensitive~~ critical area regulations, and the extent to which potential impacts of proposed activities are addressed by existing regulations that provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed activities.

2. In addition, wetland boundaries and other relevant physical features must be staked and flagged in the field by a qualified consultant.

3. The report on any ~~sensitive~~ critical area shall include the following information:

a. Vicinity map;

b. A map showing:

i. Site boundary, property lines and roads;

ii. Internal property lines, rights-of-way, easements, etc.;

iii. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;

iv. Contours at the smallest readily available intervals, preferably at five-foot intervals; and

v. For large (50 acres or larger) or complex projects with wetlands or ~~habitat areas~~habitat conservation areas, the ~~city of Richland~~ administrator may require an aerial photo with overlays displaying the site boundaries and wetland delineation or habitat area(s). Generally, an orthophotograph at a scale of one inch equals 400 feet or greater (such as one inch equals 200 feet) should be used. If an orthophotograph is not available, the center of a small scale (e.g., one inch equals 2,000 feet) aerial enlarged to one inch equals 400 feet may be used;

~~c. The report for any sensitive critical area must describe:~~

~~i~~vi. Locational information including legal description and address;

~~ii~~vii. All natural and manmade features within 150 feet of the site boundary;

~~iii~~viii. General site conditions including topography, acreage, and water bodies or wetlands; and

~~iv~~ix. Identification of any areas that have previously been disturbed or degraded by human activity or natural processes.

4. In addition to the general report requirements, a report on wetlands shall include the following information:

a. Delineated wetland boundary;

b. The wetland boundary must be accurately drawn at an appropriate engineering scale such that information shown is not cramped or illegible. The drawing shall be prepared by a surveyor. Generally, a scale of one inch equals 40 feet or greater (such as one inch equals 20 feet) should be used. Existing features must be distinguished from proposed features;

c. Site designated on the wetlands area maps described in RMC 26.60.022;

d. Hydrologic mapping showing patterns of water movement into, through, and out of the site area;

e. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;

f. Field data sheets from the Federal Manual, numbered to correspond with sample site locations as staked and flagged in the field, including a description of:

i. Specific descriptions of plant communities, soils, and hydrology;

ii. A summary of existing wetland function and value;

iii. A summary of proposed wetland and buffer alterations, impacts, and the need for the alterations as proposed. Potential impacts may include, but are not limited to, loss of flood storage potential, loss of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on associated wetland or water resources. If alteration of a Category I, II, III, or IV wetland is proposed, a wetland mitigation plan is required according to the standards of RMC 26.60.028 and 26.60.029; and

g. Describe how mitigation meets the criteria of RMC 26.20.020, Ecological functions, no net loss, including the specified mitigation sequence.

5. In addition to the general report requirements, a report on fish and wildlife habitats shall include the requirements of RMC 26.60.044 together with the following information. The level of detail contained in the report shall generally reflect the size and complexity of the proposal and the function and value of the habitat. The city may require field studies at the applicant’s expense in appropriate cases.

a. A map of vegetative cover types, reflecting the general boundaries of different plant communities on the site;

b. A description of the species typically associated with the cover types, including an identification of any critical wildlife species expected to be found;

c. The results of searches of Washington State Department of Natural Resources' natural heritage and Washington State Department of Fish and Wildlife's nongame data system databases, if available;

d. Additional information on species occurrence available from the city of Richland or Benton County;

e. Descriptions of the following:

i. The layers, diversity and variety of habitat found on the site;

ii. Identification of edges between habitat types and any species commonly associated with that habitat;

iii. The location of any migration or movement corridors;

iv. A narrative summary of existing habitat functions and values;

v. A summary of proposed habitat and buffer alterations, impacts, and mitigation. Potential impacts may include, but are not limited to, clearing of vegetation, fragmentation of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on wetlands or water resources; and

f. Describe how mitigation meets the criteria of RMC 26.20.020, Ecological functions, no net loss, including the specified mitigation sequence.

6. In addition to the general report requirements, applicants for activities within 200 feet of ~~geologic hazard areas~~ geologically hazardous areas shall conduct technical studies and reports which include the following:

a. Review site history and available information;

b. Conduct a surface reconnaissance of the site and adjacent areas;

c. Conduct subsurface exploration suitable to the site and proposal to assess geotechnical geohydrologic conditions;

d. Conduct a detailed stability analysis of the existing landslide that demonstrates that the proposal will result in a suitable factor of safety during and following site development;

e. Characterize soils, geology and drainage;

f. Characterize ground water conditions, including the presence of any public or private wells in the immediate vicinity;

g. Analyze proposed clearing, grading and construction activities, including construction scheduling; potential direct and indirect, on-site and off-site, impacts from development; and proposed mitigation measures, including any

special construction techniques, monitoring or inspection programs (during and after construction), and surface water management controls;

h. Evaluate the presence of geologic conditions giving rise to geologic hazards;

i. Evaluate the safety and appropriateness of the proposed activities;

j. Recommend appropriate construction practices, monitoring programs and other mitigating measures required to ensure achievement of the purpose and intent of these regulations. The format of any required reports shall be determined by the city of Richland;

k. Recommend surface water management controls during construction and operation;

l. Propose construction scheduling; and

m. Recommend site monitoring and inspection during construction.

7. In addition to the general report requirements, a report for critical aquifer recharge areas must include the following information:

a. Available information regarding geologic and hydrogeologic characteristics of the site, including the surface location of all CARAs located on site or immediately adjacent to the site, and permeability of the unsaturated zone;

b. Ground water depth, flow direction, and gradient based on available information;

c. Currently available data on wells and springs within 1,000 feet of the project area;

d. Location of other ~~sensitive~~ critical areas, including surface waters, within 1,000 feet of the project area;

e. Available historic water quality data for the area to be affected by the proposed activity;

f. Evaluation of the potential impact of the proposed development on ground water quality, both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities; and

g. A proposed mitigation plan, as applicable. Applicants must demonstrate how they will integrate necessary and appropriate best management practices to prevent degradation of ground water.

8. In addition to the general report requirements, a report on floodplain development shall include the information required by RMC 22.16.040, Administration.

C. Permit Process. This section is not intended to create a separate permit process for development proposals. To the extent possible, the ~~city of Richland~~ administrator shall consolidate and integrate the review and processing of ~~sensitive~~ critical area-related aspects of proposals with other land use and environmental considerations and approvals.

D. The administrator has the authority to seek expert advice in determining the adequacy of the submitted report, at the applicant's expense.

**26.60.082 Requirements of qualified ~~consultants~~professional.**
All reports or studies are to be performed by a licensed or qualified professional~~, licensed or qualified as a consultant~~, in the ~~sensitive~~ critical area at issue. The ~~city of Richland~~ administrator shall determine whether a person is a qualified ~~consultant~~ professional based on the criteria established in Chapter 26.80 RMC.

**26.60.083 Land divisions.**
All proposed divisions of land which include regulated ~~sensitive~~ critical areas shall comply with the following procedure and development standard:

A. New lots shall contain at least one building site, including access that is suitable for development and is not within a portion of the regulated ~~sensitive~~ critical area or its associated buffer or setback in which a restriction or prohibition on alteration is provided by this program.

**26.60.084 General procedural provisions.**
A. Interpretations and Conflicts. Appeal to the hearing examiner concerning interpretation or administration of this title may be taken by any person aggrieved ~~Any question regarding interpretation of these regulations shall be resolved~~ pursuant to the procedures set forth in RMC 23.70.070.

B. Penalties and Enforcement. Any person who has violated any provision of this chapter shall have committed a civil infraction subject to a civil penalty as set forth in RMC 10.02.050(E).

Provided, if the same violator has been found to have committed an infraction violation for the same or similar conduct two separate times, with the violations occurring at the same location and involving the same or similar sections of the Richland Municipal Code or other similar codes, the third or subsequent violation shall constitute a misdemeanor, punishable as provided in RMC 1.30.010 for criminal offenses.

C. Appeals from permit decisions shall be governed by the procedures set forth in Chapter 19.70 RMC.

**26.60.085 Unauthorized alterations and enforcement.**
A. When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop, and the critical area shall be restored. The city shall have the authority to issue a "stop-work" order to cease all ongoing development

work and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.

B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared by the owner or responsible party 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 subsection (C) of this section. 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.

C. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

1. The historic structure, functions, and values of the affected critical area shall be restored, including water quality and habitat functions.

2. The historic soil types and configuration shall be restored to the extent practicable.

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

4. Information demonstrating compliance with other applicable provisions of this chapter shall be submitted to the administrator.

D. Site Investigations. The administrator is authorized to make site inspections and take such actions as 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.

E. Penalties. See RMC 26.60.084(B).

F. If the critical area affected cannot be restored, money from any associated 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 critical area is located. The city may coordinate its preservation or restoration activities with others to optimize the effectiveness of the restoration action.

G. Illegal modifications. Wetland rating categories and/or fish and wildlife habitat conservation area boundaries shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

**26.60.086 Notice on title.**

A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property that contains one or more critical areas or buffers for which a development proposal has been approved shall record a notice with the county auditor's office according to the direction of the city. The notice shall state the presence of the critical area(s) or buffer(s) on the property, the application of this chapter to the property, and a listing of the limitations on actions in or affecting the critical area or buffer that may exist. The notice shall note specific requirements that may include but not be limited to the preservation of existing native vegetation; restrictions on access; the prohibition on construction of buildings or other improvements; the prohibition on grading, filling or clearing activities or other requirements as identified in this chapter. The notice shall "run with the land."

B. The notice on title shall not be required for a development proposal by a public agency or public or private utility:

1. Within a recorded easement or right-of-way;

2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or

3. On the site of a permanent public facility.

C. The applicant shall submit proof that the notice has been recorded before the city grants any final development approval for the property. In the case of subdivisions, short subdivisions or binding site plans, a note on the recorded plat shall satisfy the requirement for a notice on title.

# Chapter 26.70
# NO SPECIAL DUTY CREATED

Sections:

26.70.010 No special duty created.

## 26.70.010 No special duty created.

It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

Nothing contained in this title is intended to be, nor shall be construed to create or form, the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this title, or by reason or consequence of any inspection, notice, or order made or given in connection with the implementation or enforcement of this title, or by reason of any action of the city related in any manner to enforcement of this title by its officers, agents or employees.

# Chapter 26.71
# SEVERABILITY

Sections:
26.71.010 Severability.

## 26.71.010 Severability.

The provisions of this title are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this title to any person or circumstance shall not affect the validity of the remainder of this title or the validity of its application to other persons or circumstances.

# Chapter 26.80
# DEFINITIONS

Sections:
26.80.010 Definitions.

## 26.80.010 Definitions.

~~"Agriculture" or "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 (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.~~

~~Agricultural equipment and agricultural facilities include, but are not limited to:~~

~~A. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;~~

~~B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;~~

~~C. Farm residences and associated equipment, lands, and facilities; and~~

~~D. Roadside stands and on-farm markets for marketing fruit or vegetables.~~

"Adjacent" shall mean any activity located:

A. On a site immediately adjoining a critical area;

B. A distance equal to or less than the required critical area buffer width and building setback, or, where the buffer width has yet to be determined, a distance equal to a buffer and setback that would typically be required for the present habitat or species;

C. A distance equal to or less than 250 feet* from a stream, wetland, channel migration zone or water body;

D. Within the floodway or floodplain; or

E. A distance equal to or less than 200 feet** from a critical aquifer recharge area.

“Administrator” means such person as the city manager of the city of Richland shall designate to administer and enforce the provisions of this title.

“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;

“Agricultural activities, existing and ongoing” include those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring a previously nonagricultural area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program.

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

“Agricultural equipment” 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; and

“Agricultural land” means those specific land areas on which agriculture activities are conducted.

“Alteration” means a human action which results in a physical change to the existing condition of land or improvements including but not limited to: clearing vegetation, filling and grading and construction of structures or facilities including impervious surfaces.

“Applicant” means the person, party, firm, partnership, corporation, or other entity that ~~applies for any permit or approval pursuant to this title, and may include applicants for other approvals pursuant to other provisions of the Richland Municipal Code.~~ proposes any activity that could affect a critical area.

“Aquaculture” means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery.

~~“Artificially created wetland” means 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 landscaping 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.~~

“Associated jurisdictional wetlands” are those wetlands that are in proximity to and either influence or are influenced by shoreline areas subject to the Shoreline Management Act.

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

“Best available science” means 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 365-195-925.

“Best management practices (BMPs)” ~~should not exclude new agricultural and land management activities, especially in sensitive areas and their buffers, and should also encourage ongoing agricultural activities to minimize their effects on water quality, riparian ecology, salmonid populations, and downstream resources. BMPs~~ are current and evolving conservation practices, or systems of practices, management or operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land use activity in a manner which:

A. Controls soil loss and reduces surface water and ground water quality degradation caused by nutrients, wastes, toxics, and sediment;

B. Minimizes where possible and mitigates where necessary adverse impacts to the natural chemical, physical and biological environment of the city;

C. Utilizes the city’s natural resources on a long-term, sustainable yield basis;

D. Protects trees, vegetation, and soils designated to be retained during and following site construction, and uses native plant species appropriate to the site for revegetation of disturbed areas; and

E. Prevents contamination of surface and ground water resources, and protects from impacts to native and other desirable vegetation with BMPs for chemical pesticide, herbicide, and fertilizer applications.

“Bioengineering” means the use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

“Boating facility” for the purposes of this program means any public or private facility for mooring, storing, or transfer of materials from vessels on the water, such as docks and piers, including on-land related facilities such as approaches and ramps, and includes any private and publicly accessible launch sites or facilities. A boating facility does not include on-land accessory facilities such as parking or storage.

“Buffer” means an area adjacent to a ~~sensitive~~ critical area that functions to avoid loss or diminution of the ecologic functions and values of the ~~sensitive~~ critical area. Specifically, a buffer may:

A. Preserve the ecologic functions and values of a system, including, but not limited to, providing microclimate conditions, shading, input of organic material, and sediments; room for variation and changes in natural wetland, river, or stream characteristics; providing for habitat for life cycle stages of species normally associated with the resource;

B. Physically isolate a ~~sensitive~~ critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual, and/or sound barriers, and generally including dense native vegetation, but also may include human-made features such as wildlife-friendly fences and other barriers;

C. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

“Building” means a roofed and walled structure built for permanent or temporary use.

“Building height in Shoreline Management Act jurisdiction” only means the vertical distance between average grade and the highest part of the coping of a flat roof, or the deck line of a mansard roof, or the highest point of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of that segment of the building with all roof elements at a different elevation than adjacent steps or terraces; 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. Temporary construction equipment is excluded in this calculation.

“Bulkhead” means a structure of timber, concrete, steel, rock, or similar substance located parallel to the shore, which has as its primary purpose to contain and prevent the loss of soil by erosion, wave, or current action.

“Channel migration zone” 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. For the purpose of this program, the channel migration zone excludes areas separated from the active river channel by legally existing artificial structures that are likely to restrain channel migration, including, but not limited to, flood control facilities, transportation facilities, and structures built above or constructed to remain intact through the 100-year flood.

“Clearing” means the removal of trees, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth’s surface of the site.

“Compensatory mitigation” means the restoration, creation, enhancement or, in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

“Creation” (of wetland) means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. ~~Establishment~~ Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species (Gwin et al. 1999).

“Critical aquifer recharge areas” are areas with a critical recharging effect on aquifers needed for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

“Critical areas” are areas defined in RCW 36.70A.030(5) including any of the following areas or ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

~~“Critical habitat” or “critical wildlife habitat” means habitat conservation areas associated with threatened, endangered, sensitive critical, or priority species of plants or wildlife which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term. Such areas are documented with reference to lists, categories and definitions of species promulgated by the Washington Department of Wildlife (Non-Game Data System Special Animal Species) as identified in WAC 232-12-011 or 232-12-014 and in the priority habitat species lists compiled in compliance with WAC 365-190-080, or by rules and regulations adopted currently or hereafter by the U.S. Fish and Wildlife Service.~~

~~“Critical habitat” also includes the following types of areas:~~

~~A. Regionally rare native fish and wildlife habitat (i.e., one of five or fewer examples of the habitat within the Mid-Columbia region).~~

~~B. Fish and wildlife areas with irreplaceable ecological functions, including, but not necessarily limited to, the following:~~

~~1. The areas listed as a national wildlife refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;~~

~~2. The Lake Wallula wildlife habitat conservation areas managed by the U.S. Army Corps of Engineers, including the Yakima River Wildlife Management Area and the Hanford Islands in the Columbia River managed by the U.S. Fish and Wildlife Service;~~

~~3. Category I wetlands as defined in RMC 26.60.023;~~

~~4. State nature area preserves or natural resource conservation areas identified by state law and managed by the Department of Natural Resources;~~

~~5. Documented habitat, other than accidental presence, of threatened or endangered species;~~

~~6. Documented habitat, other than accidental presence, of regional or national significance for migrating birds.~~

“Cumulative impacts” are the results of incremental actions when added to past, present, and reasonably foreseeable future actions. Cumulative impacts can be deemed substantial and subject to mitigation conditions even though they may consist of individual actions having relatively minor impacts.

“Developer” means any person, firm, corporation, or agency engaged in the act of development.

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

“Development plan” means a proposal for development consisting of such site plans, vicinity maps, drawings, illustrations, documents, and conditions as may be necessary and appropriate.

“Dock” means a place for vessels to moor and may include a variety of facilities including piers and floating structures extending from the shore over the water. This definition does not include over-water trails.

“Dredging” is the removal of earth, sand, gravel, silt, or debris from below the ordinary high water mark of any river, stream, pond, lake, or other water body and beneath the area of seasonal saturation of any wetland.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Ecological function” 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 an element of a natural ecosystem.

“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

“Emergency housing” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

“Emergency shelter” means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

“Enhancement” (of habitats in general) means the improvement of existing habitat such as by increasing plant density or structural diversity, or by ~~controlling nonindigenous or noxious species by replacing with native species~~ removing nonindigenous or noxious species and by replacing with native species.

“Enhancement” (of wetlands) means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s), or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. ~~[Examples are planting vegetation, controlling nonnative or invasive species, and replacing with native species. And modifying site elevations to alter hydroperiods.]~~ Activities typically consist of planting vegetation, controlling nonnative or invasive species and replacing with native species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

“Erosion” means wearing away of rock or soil by the gradual detachment of soil and rock fragments by water, wind, ice, and other mechanical and chemical forces.

“Erosion hazard areas” are areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.

“Excavation” means the mechanical removal of earth material.

~~“Existing and ongoing agricultural activities” include those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring a previously nonagricultural area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program.~~

“Exotic” means a species, plant community type, or habitat that has been introduced or modified as a result of human actions.

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

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

A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

B. The action provides a reasonable likelihood of achieving its intended purpose; and

C. The action does not physically preclude achieving the project’s primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the city may weigh the action’s relative public costs and public benefits, considered in short- and long-term time frames.

“Federal Manual” or “federal methodology” means the methodology for identifying wetlands in the field as described in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

“Fill” means earth or any other substance or material placed in or on the ground, including earth retaining structures, in an area waterward of the OHWM. In wetlands, it includes any action that raises the elevation or creates dry land.

“Filling” means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, sediment surface, or other fill material.

“Fish and wildlife habitat conservation area” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range and movement corridors, and areas with high relative population density or species richness. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

“Floodplain” is synonymous with 100-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

“Floodway” ~~means the channel of a river or other watercourse and the adjacent land areas that either:~~

~~A. Has been established in Federal Emergency Management Agency Flood Insurance Rate Maps or floodway maps; or~~

~~B. Consists of those portions of a river valley lying waterward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.~~

~~C. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood risk reduction devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.~~

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 a designated height (not more than one foot). Also referred to as “regulatory floodway.”

“Frequently flooded areas” are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year or within areas subject to flooding due to

high ground water. These areas include, but are not limited to, streams, rivers, and wetland areas where high ground water ponds on the ground surface.

"Functions and values" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological and aesthetic value protection; educational opportunities and recreation.

"Geologically hazardous areas" are areas that because of their susceptibility to erosion, sliding, earthquakes or other geological events are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns.

"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, estimates of susceptibility to erosion, sliding, earthquake, or other geological events, and the extent of risk to the health and safety of persons and property. Such a report shall include 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 regarding the regional and local geology and processes.

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

"Habitat management" means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

~~"Habitat map" means maps of plant cover types/communities, referred to as fish and wildlife conservation areas, adopted by the city of Richland to indicate the potential presence of wildlife species.~~

"High impact land use" means land uses that are generally associated with relatively high levels of human activity or disturbance, development of structures, or substantial wetland habitat impacts. Depending on their context, high impact land uses can include, but are not limited to, residential buildings and structures, active recreation areas and facilities, commercial and industrial land uses, buildings and structures, and similar uses and activities which create a significant potential for impacts to wetlands. The context for determining the impact of a land use includes the sensitivity of the wetland, the density and intensity of adjacent development, the amount of impervious surface, the

orientation of proposed buildings and structures, and other relevant factors as determined in an individual case.

“In-kind mitigation” means replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

“In-stream structures” are structures located waterward of the ordinary high water mark that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

“Isolated wetlands” means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

“Landslide hazard areas” are areas that are 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. Landslide hazard areas include, but are not limited to, the following types of areas:

A. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;

B. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

C. Areas with all three of the following characteristics:

1. Areas with slope steeper than 15 percent;

2. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

3. Springs or ground water seepage;

D. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

E. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

F. Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

G. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;

H. Areas that show evidence of, or on, an active alluvial fan presently or potentially subject to inundation by debris flows or catastrophic flooding; or

I. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 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 10 feet of vertical relief.

“Local utility” means public or private utilities normally servicing a neighborhood or defined subarea in the city (e.g., telephone exchanges, sanitary sewer, stormwater facilities, distribution lines, electrical distribution less than 55 kilovolts, telephone, cable television, etc.).

“Low impact land use” means land uses that are typically associated with relatively low levels of human activity, disturbance or development, and that are conducted in a manner so as to minimize impacts to the buffer. Low impact land uses may include:

A. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

B. Passive recreation, including walkways or trails which may be located in the outer 25 percent of the buffer area;

C. Educational and scientific research activities, provided prior approval is obtained from the approval authority;

D. Normal and routine maintenance and repair of any existing public or private facilities, provided appropriate measures are undertaken to minimize impacts to the wetland and its buffer, and that disturbed areas are restored immediately to a natural condition; or

E. Agricultural land uses that do not create a significant probable wetland impact.

“Marina” means any commercial or club-owned facility consisting of docks or piers serving five or more vessels, or a shared moorage serving a subdivision serving 10 or more vessels.

“Mining” means the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses.

“Mitigation” means a series of prioritized actions that when achieved in full ensures project impacts will result in no net loss of ~~habitat value or fish and wildlife populations.~~ecological functions.

~~“Mitigation”~~ Mitigation involves actions that proceed in sequence from the highest to the lowest priority as follows:

A. Avoiding impacts to environmentally ~~sensitive~~ critical areas by not taking action or parts of actions.

B. Minimizing impact by limiting the degree or magnitude of the action and its implementation.

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

E. Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring alone is not considered mitigation for purposes of these regulations, it may be part of a comprehensive mitigation program.

“Mixed use” within an area subject to the jurisdiction of the Shoreline Management Act means a combination of compatible uses within one development, in which water-oriented and non-water-oriented uses are included.

“Multiple use” means a combination of compatible uses within one development, and may include commercial, multifamily, and recreation uses, among others. The term “mixed use” in RMC Title 23, Zoning Regulations, may be used in the same sense as “multiple use” in this title, Shoreline Management.

“Native vegetation” means vegetation indigenous to the area in question.

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

“No net loss of ecological functions” is the maintenance of existing ecological processes and functions at the level that existed at the time of approval of relevant policies and regulations.

A. No net loss of ecological functions on the level of the city means that the ecological processes and functions are maintained within a watershed or other functional catchment area. Regulations may result in localized cumulative impacts or loss of some localized ecological processes and functions, as long as the ecological processes and functions of the system are maintained. Maintenance of system ecological processes and functions may require compensating measures that offset localized degradation.

B. On a project basis, “no net loss” means that permitted use or alteration of a site will not result in on-site or off-site deterioration of the existing condition of ecological functions that existed prior to initiation of use or alterations as a direct or indirect result of the project.

C. No net loss is achieved both through avoidance and minimization of adverse impacts as well as compensation for impacts that cannot be avoided. Compensation may include on-site or off-site restoration of ecological functions to compensate for localized degradation.

“Non-water-dependent use” means those uses which are not water-dependent.

“Non-water-oriented use” means those uses which are not water-dependent, water-related, or water-enjoyment.

~~“Nonconforming lot, use, structure, or site” means a preexisting parcel which was lawfully created prior to the effective date of this program but does not meet minimum size or other dimensional requirements, a use which was legally established prior to the effective date of this program, which would not be permitted as a new use in the area in which it is located under the terms of this program, or a structure lawfully erected prior to the effective date of this program or a site altered or improved which does not meet current standards for setbacks, buffers, vegetation conservation, landscaping, public access, screening, or other regulations for the area in which it is located due to changes in regulations since its establishment.~~

“Non-conforming use or development” means a shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable permitting provisions in the shoreline jurisdiction (WAC 173-27-080).

“Open space” means an area that is intended to provide light and air, view, use, or passage of persons or animals which is almost entirely unobstructed by buildings, paved areas, or other human-made structures, and is designed or preserved for environmental, habitat, scenic, or recreational purposes.

“Ordinary high water mark” means the mark on all lakes and streams that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland and vegetation, as that condition existed on June 1, 1971, for all lands under the jurisdiction of the Shoreline Management Act, or for other lands on the effective date of the relevant provisions of this program, or as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the city or other authorized jurisdictions. In any area where the ordinary high-water mark cannot be found, it shall be defined in accordance with WAC 173-22-030, generally the line of the mean higher high tide in areas adjoining salt water, and the line of mean high water in areas adjoining fresh water.

“Party of record” includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, and turbidity or pollutants after development, construction, or restoration.

“Permit” means that shoreline substantial development, shoreline special use, or shoreline variance permit issued by the city of Richland administrator prior to substantial development in shoreline areas, subject to review by the State of Washington Department of Ecology and the State Attorney General.

“Pier” means docks or similar structures supported by fixed piles. This definition does not include over-water trails.

“Preservation” (of wetlands) means the removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must either be a habitat included on WDFW’s Priority Habitat and species list or have one or more of the following attributes:

A. Comparatively high fish or wildlife density;

B. Comparatively high fish or wildlife species diversity;

C. Fish spawning habitat;

D. Important wildlife habitat;

E. Important fish or wildlife seasonal range;

F. Important fish or wildlife movement corridor;

G. Rearing and foraging habitat;

H. Important marine mammal haul-out;

I. Refugia habitat;

J. Limited availability;

K. High vulnerability to habitat alteration;

L. Unique or dependent species; or

M. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands ~~or~~, eelgrass meadows or shrub steppe habitat). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated

marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

"Priority habitat and species list" means a list published by the Washington Department of Fish and Wildlife, which is a catalog of habitats and species considered to be priorities for conservation and management. Priority species require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial or tribal importance. Priority species include state endangered, threatened, critical and candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial or tribal importance that are vulnerable. Priority habitats are habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species (e.g., juniper savannah), a described successional stage (e.g., old-growth forest) or a specific habitat feature (e.g., cliffs).

"Priority habitat and species map" means maps of plant cover types/communities. Considered by Washington State Department of Fish and Wildlife to contain priority habitat or wildlife species. PHS is a source of best available science that informs local planning activities and land use applications.

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

~~A. Criterion 1, State-Listed or State-Proposed Species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State-proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.~~

~~B. Criterion 2, Vulnerable Aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.~~

~~C. Criterion 3, Species of Recreational, Commercial, and/or Tribal Importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance, and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.~~

~~D. Criterion 4. Species listed under the Federal Endangered Species Act as either proposed, threatened, or endangered.~~

"Public access" means a physical and/or visual approach to and along the shoreline available to the general public.

“Public interest” means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected, including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

~~“Qualified consultant” means a professionally trained and/or certified wildlife biologist, ecologist or other professional with expertise in the scientific disciplines necessary to identify, evaluate and manage habitat.~~

“Qualified professional” ~~means~~ for the purpose of these regulations, shall mean 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 must have obtained a Bachelor of Science or Bachelor of Arts or equivalent degree in biology, ecology, engineering, environmental studies, fisheries, geomorphology or related field, and at least two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology, ecology or related field and professional experience related to the subject species. A “qualified wetland specialist” is further defined below.

B. A qualified professional for a geological hazard must be a professional geotechnical engineer or geologist, licensed in the state of Washington.

C. A qualified professional for critical aquifer recharge areas ~~means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments~~ must be a currently licensed Washington State geologist holding a current specialty license in hydrology.

“Qualified wetland specialist” means a person or firm with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

A. A Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, ecology, environmental studies, fisheries, soil science, wildlife or related field, and at least two years of related work experience, including a minimum of one year of experience delineating wetlands using the Unified Federal Manual in preparing wetland reports. Additional education may substitute for one year of related work experience; or

B. Four or more years of related work experience and training, with a minimum of two years~~'~~ experience delineating wetlands using the Unified Federal Manual in preparing wetland reports.

“Recreation areas or facilities” means any privately or publicly owned passive or active facility that provides for activities undertaken for pleasure or relaxation and for the refreshment of the mind and body that takes place in the outdoors or in a facility dedicated to the use, including, but not limited to, walking, fishing, photography, viewing, and bird watching, and may include parks, playgrounds, sports fields, paths and trails, beaches, or other recreation areas or facilities.

“Reestablishment” (of wetland) means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Reestablishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

“Regulated activity” means ~~activities occurring in or near and/or potentially affecting a wetland or wetland buffer that are subject to the provisions of the shoreline master program. Regulated activities generally include, but are not limited to, any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting~~ activities generally including, but not limited to, filling, dredging, dumping, stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting, or any other activity that may impact the functions and values of the nearby critical area as determined by the administrator.

“Rehabilitation” (of wetland) means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

“Restore” or “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired natural or enhanced ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, 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 pre-Columbia Basin Project, aboriginal or pre-European settlement conditions.

~~Riparian management zone” (RMZ) means the fish and wildlife habitat conservation area adjacent to all rivers and streams delineated to protect riparian ecosystem functions and values. Its inner point of measure is the wider of (A) the ordinary high water mark or (B) the outer extent of the channel migration zone. Its width is the greater of (A) 100 feet, (B) one site-potential tree height of a 200-year old tree, and (C) the width needed to reliably remove pollutants as determined through a habitat conservation report.~~

“Riparian ecosystem”, or “Riparian area” means the area alongside a water body that significantly influences exchanges of energy and matter among terrestrial and aquatic ecosystems. Along streams and rivers, it includes the active channel, channel migration zone, floodplain, and portions of the adjacent uplands that contribute organic matter and shade, provide space for nutrient cycling, and keep pollutants from entering the stream.

“Sanitary landfill” is a method of disposing of solid waste on land without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical volume, and to cover it with a layer of

earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

~~"Secondary habitat" or "secondary wildlife habitat" means areas with one or more of the following attributes: comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat; significant wildlife seasonal ranges; significant movement corridors; limited availability; and/or high vulnerability. Secondary habitat offers less diversity of animal and plant species than critical habitat, but is important for performing the essential functions of habitat.~~

"Seismic hazard areas" are 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: (A) magnitude of an earthquake; (B) distance from the source of an earthquake; (C) type of thickness of geologic materials at the surface; and (D) type of subsurface geologic structure.

"~~Sensitive~~ Critical ~~areas" are those areas and ecosystems as defined under Chapter 36.70A RCW, and include:~~

~~A. Wetlands;~~

~~B. Areas with a critical recharging effect on aquifers used for potable waters;~~

~~C. Fish and wildlife habitat conservation areas;~~

~~D. Frequently flooded areas; and~~

~~E. Geologically hazardous areas.~~

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

"Shorelands or shoreland areas" means those lands under the jurisdiction of the Shoreline Management Act extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters ~~that~~ which are subject to the provisions of the Shoreline Management Act, RCW 90.58.030; the same to be designated as to location by the Washington State Department of Ecology.

"Shoreline areas" mean all shorelines of the state and shorelands.

"Shoreline jurisdiction" means all areas subject to the SMP.

"Shoreline program" or "Shoreline Master Program (SMP)" shall refer to the Richland shoreline master program.

“Shoreline stabilization” means structural and nonstructural actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

“Shorelines of Richland” are the total of all shorelines and shorelines of statewide significance within the corporate limits of the city of Richland.

“Should” means, in areas that are subject to the provisions of the Shoreline Management Act, RCW 90.58.030, that a particular action is required unless there is a demonstrated compelling reason, based on the policy of the Shoreline Management Act and this program, against taking the action. The administrator shall make the determination about whether or not an applicant has demonstrated that there is a compelling reason against taking an action, and may consult with the Department of Ecology and other agencies with jurisdiction over a proposal in making such a determination.

“Site” means any parcel or combination of contiguous parcels where a proposed project is located.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Solid waste” is defined as those presently unwanted residues of used natural or manmade resources and of human activity, including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, which are handled or managed in solid form.

“Stormwater” means runoff during and following precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body or a constructed treatment, evaporation or infiltration facility.

“Structural diversity” means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer, and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.

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

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

“Temporary erosion control” means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants during development, construction or restoration.

"Variance" means a means to grant relief from the specific bulk, dimensional, or performance standards specified in the SMP, but not a means to vary a shoreline use. Shoreline variances must be specifically approved, approved with conditions, or denied by Ecology (see WAC 173-27-170).

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

"Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use, or a use that provides for enjoyment or recreational use 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 visual and physical qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public, and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

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

"Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location, but its 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.

"Wetland" or "wetlands" refers to 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 artificially created wetlands. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands or wetland areas preserved as mitigation for the conversion of wetlands, if permitted by the City.

"Wetland, artificially created" means 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 landscaping 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.

"Wetland buffer area" means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored, or newly created wetland that is an

integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the integrity and value of the wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

~~"Wetland class" means one of the 11 class names used to describe wetland and deepwater habitat types as derived from the U.S. Fish and Wildlife Service wetland classification scheme consisting of a hierarchy of systems, subsystems, classes and subclasses to describe wetland types. Refer to USFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme. These class names include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, stream bed, and reef.~~

"Wetland delineation" means ~~the actual flagging or staking in the field of the edges of the wetland by a qualified consultant or their representative~~ a delineation done in accordance with the approved federal wetland delineation manual and applicable regional supplements as provided for in WAC 173-22-035.

"Wetland determination" means a report prepared by a qualified ~~consultant~~ professional that identifies, characterizes, and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A determination does not include a formal delineation.

~~"Wetlands" or "wetland areas" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation 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. For identifying and delineating a regulated wetland, the methodology shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements as provided in RCW 90.58.380 and WAC 173-22-035.~~

"Wildlife habitat" means areas that provide food, protective cover, nesting, breeding, or movement for fish and wildlife, and with which individual species have a primary association.

~~"Wildlife report" means a report prepared by a qualified consultant that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this program.~~

Footnotes to Definitions.

* “Adjacent,” subsection (C) – The distance of 250 feet is based on maximum wetland buffer.

** “Adjacent,” subsection (E) – The distance of 200 feet is a suggested distance to ensure that activities within the critical aquifer recharge area are included under this chapter, even when the exact boundaries of the critical aquifer recharge area are not known at the time of application.