ORDINANCE NO. 1971-0621

AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON, RELATING TO LAND USE; AMENDING CHAPTER 21.64 (CRITICAL AREAS PROTECTION) AND CHAPTERS 2, 5, 6, 7, AND 8 OF THE CITY OF SHELTON SHORELINE MASTER PROGRAM.

WHEREAS, authority for regulation of Shorelines of the State are contained in the Shoreline Management Act (RCW 90.58) and the Washington State Shoreline Guidelines contained in WAC 173-26; and

WHEREAS, in 2003 the Department of Ecology issued guidelines (WAC 173-26) for updating local shoreline master programs; and

WHEREAS, the last major update to the City’s Shoreline Master Program occurred in 2013; and

WHEREAS, in 2007 the City of Shelton updated its Critical Areas Ordinance to current science and standards; and

WHEREAS, the RCW 90.58 and WAC 173-26 require the “periodic review” of Shoreline Master Programs by local jurisdictions, in an effort to keep them current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information, or improved data; and

WHEREAS, the Community Development Department forwarded a copy of the changes proposed under this Ordinance to the Washington State Department of Commerce on March 30, 2021, pursuant to RCW 36.70A.106; and

WHEREAS, the City of Shelton Community Development Department provided SEPA notice for the proposed update to all affected agencies and Indian tribes and also provided the notice in the Shelton Journal for two consecutive weeks (May 20, 2021 and May 27, 2021); and

WHEREAS, the City Council held a public hearing on June 15, 2021 regarding the proposed update to the City of Shelton Shoreline Master Program.

NOW THEREFORE, be it ordained by the City Commission of the City of Shelton, Washington that Chapter 21.64 Critical Areas Protection of the Shelton Municipal Code and Chapters 2, 5, 6, and 7 of the City of Shelton Shoreline Master Program (2013) City of Shelton Shoreline Master Program be amended as follows:

Section 1. Chapter 21.64 (Critical Areas Protection) of the Shelton Municipal Code is amended as follows:
Section 21.64.030 Definitions, the definition of “Wetland Delineation” is amended as follows:

“Wetland delineation” means the precise determination of wetland boundaries in the field according to the application of specific methodology as described in the approved federal wetland delineation manual and applicable regional supplements, as amended.

Sections 21.64.100 through 21.64.143 are amended as follows:

21.64.100 Wetland designation.
A. Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Swamps, marshes, bogs, and wet meadows/pastures are examples of wetland. Some riparian areas adjacent to streams are also wetland.

B. Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380. Unless otherwise provided for in this chapter, all areas within the city meeting the criteria in the approved federal wetland delineation manual and applicable regional supplements, as amended regardless of any formal identification are hereby designated critical areas and are subject to the provisions of this chapter.

C. The approximate location and extent of known or suspected wetlands are shown on the city’s critical area maps. Other, unmapped wetlands may exist within the city. These maps are to be used as a guide and do not provide a definitive critical area designation.

D. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology). These categories are generally defined as follows:

1. Category I Wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of 23 points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

2. Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of between 20 and 22 points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

3. Category III Wetlands. Category III wetlands have important resource value as indicated by a rating system score of between 16 and 19 points.

4. Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than 16 points. They typically have
vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats. (Ord. 1689-1206 § 1 (part), 2007)

21.64.120 Wetland review and reporting requirements.
A. The director shall require a site evaluation (field investigation) by a qualified professional to determine whether or not a regulated wetland is present and if so, its relative location in relation to the proposed project area on site. If the director determines that a wetland is more likely than not present, the director shall require a critical area study. If no regulated wetlands are present, then wetland review will be considered complete.

B. A critical area study (wetland assessment study) describes the characteristics of the subject property and adjacent areas. The assessment shall be completed pursuant to Section 21.64.082 and include the following:

1. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;

2. Determination of the wetland category and wetland buffers;

3. Field identification and delineation of wetland boundaries. For on-site wetlands, the assessment shall include the dominant and subdominant plant species; soil type, color and texture; sources of hydrology (patterns of surface and subsurface water movement, precipitation, etc.), topography, and other pertinent information;

4. Identification of critical areas and buffers within three hundred feet of the site and an estimate of the approximate acreage for each. The assessment of off-site wetlands shall be based on available information and shall not require accessing off-site properties;

5. A detailed description of the effects of the proposed development on wetland and buffer function and value, including the area of direct wetland disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light or human intrusion;

6. A mitigation plan, if applicable. (Ord. 1689-1206 § 1 (part), 2007)

21.64.130 Wetland buffers.
A. Wetland buffer zones shall be required for all regulated activities adjacent to wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category. Buffers shall not include areas that are
functionally and effectively disconnected from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided.

B. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.

C. Buffer Dimensions.

A. Buffer Requirements. The following buffer width tables have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology).

1. For wetlands that score 6 points or more for habitat function, the buffers in Table 1 can be used if both of the following criteria are met:
   
   • 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. The latest definitions of priority habitats and their locations are available on the WDFW web site at: http://wdfw.wa.gov/hab/phshabs.htm

   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.

   Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 1 may be used with the required measures in Table 2 alone.

   • The measures in Table 2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 2 are required for the use of Table 1

3. If an applicant chooses not to apply the mitigation measures in Table 2, or is unable to provide a protected corridor where available, then Table 3 must be used.
4. The buffer widths in Table 1 and 3 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.

Table 1. Wetland Buffer Requirements, in feet, if Table 2 is Implemented and Corridor Provided

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Habitat Score 3-5 points</th>
<th>Habitat Score 6-7 points</th>
<th>Habitat Score 8-9 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I:</td>
<td>75</td>
<td>110</td>
<td>225</td>
</tr>
<tr>
<td>Based on total function score</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category I:</td>
<td>190</td>
<td>190</td>
<td>225</td>
</tr>
<tr>
<td>Bogs and Wetlands of High Conservation Value</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category I:</td>
<td>225*</td>
<td>225*</td>
<td>225*</td>
</tr>
<tr>
<td>Interdunal</td>
<td>75</td>
<td>110</td>
<td>225</td>
</tr>
<tr>
<td>Forested</td>
<td>150*</td>
<td>150*</td>
<td>150*</td>
</tr>
<tr>
<td>Estuarine and Coastal Lagoon</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category II:</td>
<td>75</td>
<td>110</td>
<td>225</td>
</tr>
<tr>
<td>Based on total function score</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category II:</td>
<td>110*</td>
<td>110*</td>
<td>110*</td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category II:</td>
<td>110*</td>
<td>110*</td>
<td>110*</td>
</tr>
<tr>
<td>Estuarine and Coastal Lagoons</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category III:</td>
<td>60</td>
<td>110</td>
<td>225</td>
</tr>
<tr>
<td>All types except Interdunal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category III:</td>
<td>60*</td>
<td>60*</td>
<td>NA</td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category IV:</td>
<td>40*</td>
<td>40*</td>
<td>40*</td>
</tr>
<tr>
<td>All Types</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
* Buffer width not based on habitat scores

Table 2 Impact Minimization Measures.
Developments that produce the listed disturbances and are requesting a buffer listed in Table 1 are required to address the disturbance through the use of applicable minimization measures.

This is not a complete list of measures, nor is every example measure required. Though every measure is not required, all effort should be made to implement as many measures as possible. The Director will determine, in coordination with the applicant, which measures are applicable and practicable.

Table 2. Impact Minimization Measures.

<table>
<thead>
<tr>
<th>Examples of Disturbance</th>
<th>Activities and Uses that Cause Disturbances</th>
<th>Examples of Measures to Minimize Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>• Parking lots</td>
<td>• Direct lights away from wetland</td>
</tr>
<tr>
<td></td>
<td>• Commercial/Industrial</td>
<td>• Only use lighting where necessary for public safety and keep lights off when not needed</td>
</tr>
<tr>
<td></td>
<td>• Residential</td>
<td>• Use motion activated lights</td>
</tr>
<tr>
<td></td>
<td>• Recreation (e.g. athletic fields)</td>
<td>• Use full cut-off filters to cover light bulbs and direct light only where needed</td>
</tr>
<tr>
<td></td>
<td>• Agricultural buildings</td>
<td>• Limit use of blue-white colored lights in favor of red-amber hues</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Use lower intensity LED lighting</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Dim light to the lowest acceptable intensity</td>
</tr>
<tr>
<td>Noise</td>
<td>• Commercial</td>
<td>• Locate activity that generates noise away from wetland</td>
</tr>
<tr>
<td></td>
<td>• Industrial</td>
<td>• Construct a fence to reduce noise impacts on adjacent wetland and buffer</td>
</tr>
<tr>
<td></td>
<td>• Recreation – (e.g. athletic fields, bleachers, etc.)</td>
<td>• Plant a strip of dense shrub vegetation adjacent to wetland buffer</td>
</tr>
<tr>
<td></td>
<td>• Residential</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Agriculture</td>
<td></td>
</tr>
<tr>
<td>Examples of Disturbance</td>
<td>Activities and Uses that Cause Disturbances</td>
<td>Examples of Measures to Minimize Impacts</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
</tbody>
</table>
| Toxic runoff*           | • Parking lots  
• Roads  
• Commercial/industrial  
• Residential areas  
• Application of agricultural pesticides  
• Landscaping  
• Agriculture | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered  
• Establish covenants limiting use of pesticides within 150 ft. of wetland  
• Apply integrated pest management |
| Stormwater runoff       | • Parking lots  
• Roads  
• Residential areas  
• Commercial/Industrial  
• Recreation  
• Landscaping/lawns  
• Other impermeable surfaces, compacted soil, etc. | • Retrofit stormwater detention and treatment for roads and existing adjacent development  
• Prevent channelized or sheet flow from lawns that directly enters the buffer  
• Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns |
| Pets and human disturbance | • Residential areas  
• Recreation | • Use privacy fencing  
• Plant dense native vegetation to delineate buffer edge and to discourage disturbance  
• Place wetland and its buffer in a separate tract  
• Place signs around the wetland buffer every 50-200’, and for subdivisions place signs at the back of each residential lot.  
• When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers. |
| Dust                    | • Tilled fields  
• Roads | • Use best management practices to control dust |

* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.
Table 3. Buffer requirements, in feet, for applicants choosing *not* to provide corridor or implement measures in Table 2

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Habitat Score 3-5 points</th>
<th>Habitat Score 6-7 points</th>
<th>Habitat Score 8-9 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Based on total function rating score (and not listed below)</td>
<td>100</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bogs and Wetlands of High Conservation Value</td>
<td>250</td>
<td>250</td>
<td>300</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interdunal</td>
<td>NA</td>
<td>NA</td>
<td>300</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forested</td>
<td>100</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estuarine and Coastal Lagoons</td>
<td>200*</td>
<td>200*</td>
<td>200*</td>
</tr>
<tr>
<td>Category II:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Based on total function rating score (and not listed below)</td>
<td>100</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>Category II:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td>150*</td>
<td>150*</td>
<td>150*</td>
</tr>
<tr>
<td>Category II:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estuarine and Coastal Lagoons</td>
<td>150*</td>
<td>150*</td>
<td>150*</td>
</tr>
<tr>
<td>Category III:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Types Except Interdunal</td>
<td>80</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>Category III:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interdunal Wetlands</td>
<td>80*</td>
<td>80*</td>
<td>NA</td>
</tr>
<tr>
<td>Category IV:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Types</td>
<td>50*</td>
<td>50*</td>
<td>50*</td>
</tr>
</tbody>
</table>

*Buffer width not based on habitat scores.*
E. Where lands within the wetland buffer have an average continuous slope of twenty percent to thirty-five percent, and the required buffer width is less than one hundred feet, the buffer shall extend to a thirty percent greater dimension. In all cases, where slopes within the buffers exceed 35 percent, the buffer shall extend twenty-five feet beyond the top of the bank of the sloping area or, if a buffer associated with a geological hazard is present, to whichever extent is greater.

F. Where other critical areas defined in this chapter fall within the wetland buffer, the buffer dimension shall be the most expansive of the buffers applicable to any applicable critical area. (Ord. 1689-1206 § 1 (part), 2007)

21.64.135 Provisions for small isolated wetlands.
A. All wetlands shall be regulated regardless of size; provided, that the director shall assure that preservation of isolated wetlands and associated buffers of less than ten thousand square feet of combined wetland and buffer shall maintain effective wetland functions, or be mitigated as provided below.

B. Wetlands and associated buffers of less than one thousand square feet may be displaced when the wetland meets all of the following criteria, as documented in a wetland critical area study.

1. The wetland is not associated with a riparian corridor or their buffers

2. The wetland is not associated with shorelines of the state or their associated buffers;

3. The wetland is not part of a wetland mosaic;

4. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; and

5. Impacts of displaced wetlands are mitigated pursuant to Sections 21.64.087 and 21.64.143.

C. Category IV wetlands between one thousand and four thousand square feet may be displaced without meeting the provisions of Section 21.64.087 regarding avoidance, minimization, rectification, and reducing and eliminating the impact over time; provided, that the criteria in subsection B of this section are met and the wetland does not score 6 points or greater for habitat in the 2014 Western Washington Rating System.

D. Preservation of isolated wetlands with a total area of the combined wetland and buffer of ten thousand square feet or less shall meet the following provisions, or if the said provisions cannot be demonstrated, as specified by the director, they may be displaced and shall be mitigated as specified in Section 21.64.143.

1. Depressional wetlands recharged only by precipitation, interflow or groundwater shall be assured a source of recharge to maintain its hydrologic character through stormwater infiltration, or other means.
2. Wetlands that have a potential to reduce flooding or erosion or has the potential and opportunity to maintain or improve water quality as evidenced by a score of at least ten points on the applicable criteria of the wetland rating form for Western Washington shall maintain a hydraulic connection to surface water that maintains effective wetland function for flood or erosion reduction or water quality and does not substantially alter the existing hydroperiod of the wetland.

3. Wetlands that achieve a score of at least 5 points on the habitat functions criteria of the wetland rating form for Western Washington shall maintain a connection to a linear corridor maintained as a stream buffer, a buffer associated with a geological hazard or other designated open space buffer sufficient to allow movement of terrestrial wildlife to and from the wetland and buffer complex without interruption by roads, paved areas or buildings within fifty feet. (Ord. 1689-1206 § 1 (part), 2007)

21.64.140 Wetland buffer averaging.
The Director may average wetland buffer widths on a case-by-case basis when the applicant demonstrates through a critical area study to the satisfaction of the director that all the following criteria are met:

A. Averaging to improve wetland protection may be permitted when all of the following conditions are met as demonstrated by a wetland assessment study pursuant to Section 21.64.120:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area;

2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;

3. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;

4. The buffer at its narrowest point is never less than three-quarters of the required width.

B. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met as demonstrated by a wetland assessment study pursuant to Section 21.64.120:

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;
3. The total buffer area after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;

4. The buffer at its narrowest point is never less than three-quarters of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

C. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of wetland functions and values in conjunction with a wetland assessment study and mitigation plan. The specific measures that shall be implemented include, but are not limited to, those in Section 21.64.147. (Ord. 1689-1206 § 1 (part), 2007)

21.64.141 Wetland buffer increase.
The Director may increase the width of the standard buffer width on a case-by-case basis, based on a critical area study, when a larger buffer is required to protect critical habitats as outlined in Section 21.64.300, or such increase is necessary to:

A. Protect the function and value of that wetland from proximity impacts of adjacent land use, including noise, light and other disturbance, not sufficiently limited by buffers provided above;

B. Maintain viable populations of priority species of fish and wildlife; or

C. Protect wetlands or other critical areas from landslides, erosion or other hazards. (Ord. 1689-1206 § 1 (part), 2007)

21.64.142 Allowed activities in wetlands and buffers.
The following uses and activities may be allowed in wetlands or buffer areas subject to the priorities, protection, and mitigation requirements of this section:

A. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and not including transformers or other facilities containing hazardous substances, may be located in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetlands.

2. The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.
3. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation.

4. Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

5. Impacts on wetland functions are mitigated in accordance with Section 21.64.143.

B. Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.

2. Facilities parallel to the wetland edge are located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

3. Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement on elevated structures as an alternative to fill, where feasible.

4. Impacts on wetland functions are mitigated in accordance with Section 21.64.143.

C. Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, pursuant to the criteria in subsection B of this section; provided, that alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

D. Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions, and subject to the provisions for nonconforming use and facilities.

E. Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category II, III, or IV wetland buffer on a case-by-case basis if the following are met:

1. Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer.
2. The discharge is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.

F. On-site sewage disposal system conventional drainfields may be permitted in the outer twenty-five percent of a Category II, III and IV wetland buffer when accessory to an approved residential structure, if the following conditions are met:

1. It is not feasible to connect to a public sanitary sewer system;

2. There is no reasonable location outside the wetland buffer based on analysis of conditions within the contiguous property owned by the applicant;

3. The facility is located as far from the wetland edge as possible and is designed and constructed in a manner that minimizes disturbance of soils and vegetation, and no trees in excess of four inches in diameter are removed or disturbed;

4. Clearing, grading, and excavation activities are limited to the minimum necessary and the area is restored following installation.

G. Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted within a Category II, III, or IV wetlands or their buffers and within a Category I wetland buffer if the following criteria are met:

1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalks;

2. The trail or facility is located in the outer fifty percent of the buffer area unless a location closer to the wetland edge or within the wetland is required for interpretive purposes;

3. The trail or facility is constructed and maintained in a manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill;

4. Wetland mitigation in accordance with Section 21.64.143. (Ord. 1689-1206 § 1 (part), 2007)

21.64.143 Wetland mitigation.
Activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with Section 21.64.087 and this section.

A. Wetland Alterations. Compensatory mitigation shall be provided for all wetland alteration and shall re-establish, create, rehabilitate, enhance, and/or preserve equivalent wetland functions and values. Compensation for wetland alterations shall occur in the following order of preference:
1. Re-establishing wetlands on upland sites that were formerly wetlands.

2. Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.

3. Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.

4. Enhancing significantly degraded wetlands.

5. Preserving Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the director determines that the overall mitigation package fully replaces the functions and values lost due to development.

B. Mitigation Ratios. Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in the table below; provided, that replacement ratio for preservation shall be determined by the director on a case-by-case basis. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

Table 21.64.143—Wetland Mitigation Type and Replacement Ratio*

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Creation</th>
<th>Re-establishment</th>
<th>Rehabilitation</th>
<th>Enhancement Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category IV</td>
<td>1.5:1</td>
<td>1.5:1</td>
<td>3:1</td>
<td>6:1</td>
</tr>
<tr>
<td>Category III</td>
<td>2:1</td>
<td>2:1</td>
<td>4:1</td>
<td>8:1</td>
</tr>
<tr>
<td>Category II</td>
<td>3:1</td>
<td>3:1</td>
<td>6:1</td>
<td>12:1</td>
</tr>
<tr>
<td>Category I</td>
<td>4:1</td>
<td>4:1</td>
<td>8:1</td>
<td>16:1</td>
</tr>
</tbody>
</table>

* Ratio is the replacement area: impact area.

C. Compensation for wetland buffer impacts shall occur at a minimum one-to-one ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

D. Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.

E. Buffers. Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based on the category in Section 21.64.130; provided, that the director shall have the
authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

F. Adjustment of Ratios. The director shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a one-to-one ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement at a two-to-one ratio. For example, impacts to one acre of a Category II wetland requiring a three-to-one ratio for creation can be compensated by creating one acre and enhancing four acres (instead of the additional two acres of creation that would otherwise be required).

G. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration; provided, that mitigation within the watershed of a stream flowing into Oakland Bay or Hammersley Inlet and within WRIA 14 may be approved upon demonstration through a watershed- or landscape-based analysis that said mitigation site would have greater ecological benefit.

H. Protection. All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with Section 21.64.085.

I. Timing. Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration. (Ord. 1689-1206 § 1 (part), 2007)

Section 2. The City of Shelton Shoreline Master Program (2013), Chapter 2 (Applicability, Shoreline Permits, and Exemptions) is hereby amended as follows:

Section 2.3.2 List of Exemptions

1. The following list should be considered a summary of exempt activities. Exemptions and details can be found in RCW 90.58.030 (3)(e), 90.58.147, 90.58.355, 90.58.515, and WAC 173-27-040, as amended. Exempt activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit, but shall obtain a statement of exemption, as provided for in Section 2.3.3.
   a. Any development of which the total cost or fair market value, whichever is higher, does not exceed six thousand, four hundred, sixteen dollars ($7,047) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining
whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, 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 shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

c. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife.
d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

f. Construction or modification of navigational aids such as channel markers and anchor buoys.

g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "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 ordinary high water mark and the perimeter of a wetland. Normal appurtenances
include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars ($2,500); or

ii. In fresh waters the fair market value of the dock does not exceed:

   a) Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

   b) Eleven thousand two hundred ($11,200) dollars for all other docks constructed in fresh waters.

However, if subsequent construction occurs within five years of the completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Puget Sound and all bays and inlets associated.

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands.

j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
l. Any project with a certification from the governor pursuant to chapter 80.50 RCW.

m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
   i. The activity does not interfere with the normal public use of the surface waters;
   ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
   iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
   iv. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
   v. The activity is not subject to the permit requirements of RCW 90.58.550.

n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of a 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 RCW 43.21C.

o. Watershed restoration projects as defined below. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
   i. "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:
      a) A project that involves less than ten (10) miles of stream-reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in
which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.

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

p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

i. The project has been approved in writing by the Department of Fish and Wildlife;

ii. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and

iii. The City of Shelton has determined that the project is substantially consistent with this shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project proponent.

a) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this shoreline master program, as follows:

(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project
must meet the criteria under (p)(iii)(1)(a)(i) and (ii) of this subsection:

(i) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

1. Elimination of human-made fish passage barriers, including culvert repair and replacement;

2. Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

3. Placement of woody debris or other in-stream structures that benefit naturally reproducing fish stocks.

4. Restoration of native kelp and eelgrass beds and restoring native oysters.

The Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the Department of Ecology determines that the scale of the project raises concerns regarding public health and safety; and

(ii) A fish habitat enhancement project must be approved in one of the following ways:

1. By the Department of Fish and Wildlife pursuant to RCW chapter 77.95 or 77.100;

2. By the sponsor of a watershed restoration plan as provided in RCW chapter 89.08;

3. By the Department of Ecology as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;

4. Through the review and approval process for the jobs for the environment program;

5. Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by
the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;

6. Through a formal grant program established by the legislature or the Department of Fish and Wildlife for fish habitat enhancement or restoration; and

7. Through other formal review and approval processes established by the legislature.

(b) Fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

(c)

(i) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(1)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the Department of Fish and Wildlife and to each appropriate local government. The City of Shelton shall accept the application as notice of the proposed project. The Department of Fish and Wildlife shall provide a fifteen-day (15) comment period during which it will receive comments regarding environmental impacts. Within forty-five (45) days, the Department of Ecology shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Department of Ecology shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Department of Ecology determines that the review and approval process created by this section is not appropriate for the proposed project, the Department of Ecology shall notify the applicant and the City of Shelton of its determination. The applicant may reapply for approval of the project under other review and approval processes.
(ii) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of WAC chapter 173-27.

(d) The City of Shelton may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(1)(A) of this subsection and that are reviewed and approved according to the provisions of this section.

q. Developments not required to obtain shoreline permits or local reviews.

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

i. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under RCW 70.105D.

ii. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet the requirements of a national pollutant discharge elimination system storm water general permit.

iii. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

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

v. Projects authorized through the Energy Facility Site Evaluation Council process pursuant to RCW 80.50.

r. 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.

Section 3. Chapter 5, Section 5.5 (Critical Areas Protection) of the City of Shelton Shoreline Master Program (2013) is hereby amended as follows:
For purposes of this Program, the following critical areas, defined in SMC Title 21, will be protected under this Program:

1. Frequently Flooded Areas;
2. Wetlands;
3. Geologically Hazardous Areas;
4. Fish and Wildlife Habitat Conservation Areas; and
5. Aquifer Recharge Areas.

5.1.1 General Provisions

1. The City of Shelton Critical Area Protection Ordinance, SMC 21.64 the Aquifer Recharge Areas provisions in SMC 21.66, and the Flood Damage Prevention provisions in SMC 18.10 are hereby adopted in whole as a part of this Program, except for the following:

a. SMC 21.64.083 “Reasonable use:” Within shoreline jurisdiction, reasonable use requests must be processed as a Variance, consistent with Chapter 2, Section 2.5.

b. SMC 21.64.091 “Appeals:” Within shoreline jurisdiction, any appeals of an administrative decision shall be appealed to the state Shorelines Hearings Board pursuant to WAC 173-27-220 and the provisions of section 7.9 of this SMP.

c. In shoreline jurisdiction, the definition of hydric soils in SMC 21.64.030 does not apply. The definition of hydric soil shall be derived from the language in the Corps of Engineers Wetland Delineation Manual and the U.S. Army Corps of Engineers (2010) Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0).

All references to the Critical Area Protection Ordinance SMC 21.64 (CAO) are for this specific version.

2. Shoreline uses, activities, developments and their associated structures and equipment shall be located, designed and operated to protect the ecological processes and functions of critical areas.

3. Critical areas within the shoreline jurisdiction shall be regulated for any use, development or activity, as provided in accordance with this Program and SMC Chapter 21.64, whether or not a shoreline permit or written statement of exemption is required.

4. Provisions of the critical area regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.
5. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with SMC Title 21.64 Critical Areas.

6. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and SMC Chapter 21.64. However, these provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program.

7. Docks and piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
   a. The public’s need for such an action or structure is clearly demonstrated and the proposal is consistent with the protection of the public trust, as embodied in RCW 90.58.020;
   b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
   c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
   d. The project is consistent with the State’s interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that:
   a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
   b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

All over-water and near-shore developments in marine and estuarine waters shall provide an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology.

Section 4. Chapter 6, Specific Shoreline Use and Modification Regulations, Table 6-1 (Shoreline Use Matrix) of the City of Shelton Shoreline Master Program (2013) is hereby amended as follows:

A new use, “Floating, on-water Residences” is added and specifically indicated to be not allowed in any use zone (indicated with an “X” in all zones).
Section 5. Chapter 7, Administration, of the City of Shelton Shoreline Master Program (2013) is hereby amended as follows:

Section 7.1, General Provisions, is amended to add new numbers 8 and 9 as follows:

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

9. The City of Shelton may grant relief from Shoreline Master Program Development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with the procedures in WAC 173-27-215.

Section 7.2.2, City Commission, is amended to replace “Commission” with “Council” in all locations.

Section 7.5, Notification to Ecology and the Attorney General, is amended as follows:

1. The Shoreline Administrator shall notify Ecology and the Attorney General of any statement of exemption, substantial development, conditional use or variance permit decisions made by the Shoreline Administrator (or Hearings Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a substantial development permit and either conditional use or variance permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General using return receipt requested mail:
Section 7.6, Ecology Review, is amended as follows:

1. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City of Shelton will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General in the form identified in Section 7.5, above. Projects that require Conditional Use Permit and/or Variance requests shall be mailed simultaneously with any Substantial Development Permit(s) for the project.

   a. Consistent with RCW 90.58.140(6), the state’s Shorelines Hearings Board twenty-one (21) day appeal period starts with the date of filing, which is defined below:

      i. For projects that only require a Substantial Development Permit: the date that Ecology receives the decision from the City of Shelton.

      ii. For a Conditional Use Permit (CUP) or Variance: the date that Ecology’s decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.

      iii. For Substantial Development Permits simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology’s decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.

Section 7.10, Master Program Review, is amended as follows:

1. This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.

2. This review process shall be consistent with RCW 90.58.050 and WAC 173-26-090 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

Section 7.11, Amendments to Master Program, is amended as follows:

1. Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100, 104, 110, and 120. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

2. Proposals for shoreline environment redesignations (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with
the criteria set forth in Shoreline Environment Designation Criteria and the Shelton Comprehensive Plan.

Section 5. Chapter 8, Definitions, of the City of Shelton Shoreline Master Program (2013) is hereby amended to alter the definition of "Development" as follows:

Development – An activity consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to the Shoreline Management Act of 1971 at any state of water level (RCW 90.58.030(3)(a)). “Development” does NOT include projects that only involve dismantling or removing structures without any associated development or redevelopment.

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Effective Date. This ordinance concerns powers vested solely in the Council as a legislative entity and shall take effect five days after passage as provided by law.

INTRODUCED by the City Council of the City of Shelton, Mason County, Washington on the 15th day of June 2021.

ADOPTED by the City Council of the City of Shelton, Mason County, Washington at a regular open public meeting held the 6th day of July 2021.

ATTEST:

City Clerk

Mayor Dorcy