CITY OF SPOKANE VALLEY
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 21-007

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON ADOPTING AMENDMENTS TO THE SHORELINE MASTER PROGRAM DEVELOPMENT REGULATIONS IN CHAPTER 21.50 SPOKANE VALLEY MUNICIPAL CODE, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the Shoreline Management Act (chapter 90.58 RCW) governs shorelines of the state and requires local governments to adopt shoreline programs in compliance with the Shoreline Management Act (SMA); and

WHEREAS, RCW 90.58.080 requires local governments to develop or amend master programs for the regulation and uses of the shorelines of the state consistent with the guidelines adopted by the Washington State Department of Ecology (Ecology); and

WHEREAS, the City of Spokane Valley (City) adopted a comprehensive shoreline master program (SMP) update pursuant to RCW 90.58.080(2), which was effective as of December 30, 2015; and

WHEREAS, RCW 90.58.080(4) requires the City to periodically review and, if necessary, revise its SMP on or before June 30, 2021; and

WHEREAS, the review process is intended to bring the SMP into compliance with current changes in laws and rules that have been added or changed since the last SMP amendment; and

WHEREAS, in 2020, the City hired the consultant firm The Watershed Company to conduct the periodic review pursuant to RCW 90.58.080(4). The entire review is paid with a grant from Ecology; and

WHEREAS, the City developed a public participation program for the periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines; and

WHEREAS, the City has followed the public participation program developed for the periodic update, including developing and maintaining a SMP website that identified key dates and documents for review, email notifications to interested parties and stakeholder distribution lists, media releases including all the City's social media platforms, and on-hold messaging at various stages in the process; and

WHEREAS, the City used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the SMP was adopted in 2015, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and

WHEREAS, the City reviewed changes to the comprehensive plan and development regulations to determine if the SMP policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and

WHEREAS, the City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii); and

WHEREAS, on February 12, 2021, the City issued a notice of the public hearing stating that the City was accepting public comments for 30 days. The City also published all draft documents on the SMP project webpage and notified the public of their availability; and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared and the City's SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on February 12, 2021; and

WHEREAS, the City provided Notice of Intent to Adopt to the Washington State Department of Commerce in accordance with WAC 173-26-100(5); and

WHEREAS, the City Solicited comments on the draft proposal from Ecology prior to local approval; and

WHEREAS, on February 25, 2021, an overview of the proposed SMP amendments and a summary of the adoption process was provided to the Planning Commission; and

WHEREAS, on March 11, 2021, the Planning Commission conducted a public hearing for the purpose of taking public testimony on the proposed amendments; and

WHEREAS, after the public hearing on March 11, 2021, the public hearing was closed, except to allow written comments to be submitted by close of business on Friday, March 12, 2021; and

WHEREAS, on March 25, 2021, the Planning Commission reviewed all public comments and deliberated on the proposed SMP amendments; and

WHEREAS, on May 13, 2021, after deliberations, the Planning Commission unanimously voted to adopt the findings recommending to the City Council to adopt the proposed amendments to the SMP; and

WHEREAS, this completes the City's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

NOW, THEREFORE, the City Council of the City of Spokane Valley ordains as follows:

Section 1. Review and Evaluation. The City hereby finds that the review and evaluation required by RCW 90.58.080(4) have occurred, as described in the recitals above, which are incorporated herein by reference as set forth in Section 2.

Section 2. Findings and Conclusions. The City Council acknowledges that the Planning Commission conducted appropriate investigation and study, held a public hearing on the proposed updates to the SMP and recommended approval of the revised SMP. The City Council has read and considered the Planning Commission's findings. The City Council adopts the foregoing recitals as findings for this Ordinance, which are incorporated by reference as if set forth in full, and also makes the following conclusions:

Conclusions:

A. The Council finds compliance with SVMC 17.80.150(F) for the SMP. The SMP is consistent with the goals and policies of the Spokane Valley Comprehensive Plan, and will promote the public

health, safety, welfare, and protection of the environment. Specifically the Council concludes the following:

1. The draft SMP amendments are consistent with the following policy and goal of the Spokane Valley Comprehensive Plan:

H-P2 Adopt development regulations that expand housing choices by allowing innovative housing types including tiny homes, accessory dwelling units, pre-fabricated homes, co-housing, cottage housing, and other housing types.

NR-G3 Ensure that Critical Areas and Shoreline Master Program regulations are based on best available science and are consistent with required environmental policy.

2. The draft SMP amendments bear a substantial relation to public health, safety, welfare, and protection of the environment. The proposed amendments to the SMP were identified after a review of changes to laws and rules. The proposed amendments implement changes to local and state laws and rules including best available science for wetlands and fish and wildlife habitat conservation areas. The proposed amendments maintain the vision and goals adopted in the SMP and Comprehensive Plan.

3. The draft SMP amendments are in compliance with RCW 90.58, WAC 173-26, and the Washington State Shoreline Management Planning Guidelines.

B. The Council finds that adequate public noticing was given to offer the public participation opportunities consistent with the adopted SMP Public Engagement Plan.

C. The proposed updates to the SMP are necessary to maintain consistency with changes to local and state laws and rules. The proposed text amendments fulfill the City's obligations under state law to review and revise the SMP.

Section 3. Amendment of Shoreline Master Program. The City's existing development regulations for the SMP, set forth in chapter 21.50 SVMC and Appendix A-1, are hereby amended as set forth in Exhibit 1, attached hereto and fully incorporated herein. The remaining portions of the chapter 21.50 SVMC and Appendix A-1 shall remain unchanged.

Section 4. Submission to Department of Ecology. The City Manager or designee is directed to submit the revised SMP and associated documents to the Department of Ecology for review and approval prior to formal adoption. Once approved by the Department of Ecology, no further action is necessary for compliance with RCW 90.58.080(4) for the periodic review update due on June 30, 2021.

Section 5. Severability. If any section, sentence, clause of phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 6. Effective Date. Except as otherwise provided in this Section, this Ordinance shall be in full force and effect five days after publication of this Ordinance or a summary thereof in the official newspaper of the City of Spokane Valley as provided by law. The amendments to chapter 21.50 SVMC and Appendix A-1 shall not be effective until 14 days after the Department of Ecology's final action as provided by RCW 90.58.090(7).

Passed by the City Council this 8th day of June , 2021

Ben Wick, Mayor

ATTEST:

Christine Bainbridge, City Clerk

Approved as to Form:

Office of the City Attorney

Date of Publication: 6-18-2021
Effective Date: 6-23-2021
(see Section 6)

CHAPTER 21.50 - SHORELINE REGULATIONS

Article I. Shoreline Permits, Procedures, and Administration

21.50.010 Applicability, Shoreline Permits, and Exemptions

To be authorized, all uses and development activities in shorelines shall comply with the City of Spokane Valley's (City) Shoreline Master Program (SMP) and the Shoreline Management Act (SMA) pursuant to RCW 90.58.140(1). All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted.

21.50.020 Applicability

A. The SMP shall apply to all shorelands, shorelines, and waters within the City that fall under the jurisdiction of chapter 90.58 RCW. The *Shoreline Designations Map* is shown in Appendix A. These include:
   1. Lands extending 200 feet from the ordinary high water mark (OHWM) of waters that fall under the jurisdiction of chapter 90.58 RCW, in all directions as measured on a horizontal plane;
   2. Floodways and contiguous floodplain areas landward 200 feet from such floodways;
   3. Critical areas within the shoreline and their associated buffer areas; and
   4. Lakes that are subject to the provisions of the SMP, as may be amended.

B. Maps depicting the extent of shoreline jurisdiction and shoreline designations are for guidance only. They are to be used in conjunction with best available science, field investigations, and on-site surveys to accurately establish the location and extent of the shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline or a Shoreline of Statewide Significance, whether mapped or not, are subject to the provisions of the SMP. Within the City, Shelley Lake is considered a Shoreline of the State and is subject to the provisions of the SMP. The Spokane River is further identified as a Shoreline of Statewide Significance.

C. The SMP shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, critical areas, or waters that fall under the jurisdiction of the SMA.

D. Specific developments identified in WAC 173-27-044 and -045 are not required to obtain shoreline permits or local reviews.

E. Development may require a shoreline permit in addition to other approvals required from the City, state, and federal agencies.

F. The SMP shall apply whether the proposed development or activity is exempt from a shoreline permit or not.

G. Definitions relevant to the SMP are set forth in Appendix A-1. If any conflict occurs between the definitions found in Appendix A-1, and Appendix A, the definition provided in Appendix A-1 shall govern.

H. When the provisions set forth in SVMC 21.50 conflict with other provisions of the SMP or with federal or state regulations, those which provide more substantive protection to the shoreline shall apply.

21.50.030 Administrative Authority and Responsibility

A. The City Manager or designee is the City's designated shoreline administrator, who shall carry out the provisions of the SMP and who shall have the authority to act upon the following matters:
   1. Interpretation, enforcement, and administration of the SMP;
   2. Modifications or revisions to approved shoreline permits as provided in the SMP; and
   3. Requests for Letters of Exemption.

B. The City Manager shall ensure compliance with the provisions of the SMP for all shoreline permits and approvals processed by the City pursuant to SVMC 21.50.100, 21.50.110, 21.50.130, and 21.50.140.

C. The City Manager shall document all project review actions in the shoreline jurisdiction in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions, pursuant to WAC 173-26-191(2)(a)(iii)(D).

D. The City Manager shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines of chapter 173-26 and 173-27 WAC.

21.50.040 Types of Shoreline Permits

Developments and uses within the shoreline jurisdiction may be authorized through one or more of the following:

A. Shoreline Substantial Development Permit, pursuant to SVMC 21.50.100, for substantial development.
B. Shoreline Conditional Use Permit, pursuant to SVMC 21.50.130, for projects identified in SVMC 21.50.190 or uses not specified in the SMP.
C. Letters of Exemption, pursuant to SVMC 21.50.120, for projects or activities meeting the criteria of RCW 90.58.030(3)(e) and WAC 173-27-040(2).
D. Shoreline Variance, pursuant to SVMC 21.50.140.

21.50.050 Development Authorization Review Procedure

A. Complete development applications and appeals shall be processed pursuant to SVMC 17.80 Permit Processing Procedures, SVMC 17.90 Appeals, and with any specific process requirements provided in SVMC 21.50 including:
   1. Submittals;
   2. Completeness review;
   3. Notices;
   4. Hearings;
   5. Decisions; and
   6. Appeals.

B. The following procedures shall also apply to development authorizations within the shoreline jurisdiction:
   1. The public comment period for Shoreline Substantial Development Permits shall be 30 days, pursuant to WAC 173-27-110.

2. The public comment period for limited utility extensions and shoreline stabilization measures for bulkheads to protect a single-family residence and its appurtenant structures shall be 20 days, pursuant to WAC 173-27-120.
3. For limited utility extensions and bulkheads for a single-family residence, a decision shall be issued within 21 days from the last day of the comment period, pursuant to WAC 173-27-120.
4. The effective date of a shoreline permit shall conform to WAC 173-27-090 and shall be the latter of the permit date, or the date of final action on subsequent appeals of the shoreline permit, if any, unless the Applicant notifies the shoreline administrator of delays in other necessary construction permits.
5. The expiration dates for a shoreline permit pertaining to the start and completion of construction, and the extension of deadlines for those dates shall conform to WAC 173-27-090 and are:
   a. Construction shall be started within two years of the effective date of the shoreline permit;
   b. Construction shall be completed within five years of the effective date of the shoreline permit;
   c. A single one-year extension of the deadlines may be granted at the discretion of the City Manager; and
   d. The City Manager may set alternative permit expiration dates as a condition of the shoreline permit if just cause exists.
6 The decision and the application materials shall be sent to Ecology after the local decision and any local appeal procedures have been completed, pursuant to WAC 173-27-130.
7. For Shoreline Substantial Development Permits, Ecology shall file the permit without additional action pursuant to WAC 173-27-130.
8. For Shoreline Conditional Use permits and Variance decisions, Ecology shall issue a decision within 30 days of the date of filing, pursuant to WAC 173-27-130 and WAC 173-27-200.
9. The appeal period to the Shorelines Hearings Board of an Ecology action shall be 21 days from the date of filing, pursuant to WAC 173-27-190. The date of filling shall be as follows:
   a. For projects that only require a Shoreline Substantial Development Permit: the date that Ecology actually receives a final decision by the City.
   b. For a Shoreline Conditional Use Permit or Variance: the date that Ecology's decision on the Shoreline Conditional Use Permit or Variance is transmitted to the applicant and the City.
   c. For Substantial Development Permits simultaneously mailed with a Shoreline Conditional Use Permit or Variance to Ecology: the date that Ecology's decision on the Shoreline Conditional Use Permit or Variance is transmitted to the applicant and the City.
10. The Shorelines Hearings Board will follow the rules governing that body, pursuant to chapter 90.58 RCW.

C. Development applications shall be reviewed for conformance with SVMC 21.50.180 through 21.50.560.

21.50.060 Authorization Decisions - Basis for Action

A. Approval or denial of any development or use within the shoreline jurisdiction shall be based upon the following:
   1. Danger to life and property that would likely occur as a result of the project;

2. Compatibility of the project with the critical area features on, adjacent to, or near the property, shoreline values and ecological functions, and public access and navigation;
3. Conformance with the applicable development standards in SVMC 21.50;
4. Requirements of other applicable local, state, or federal permits or authorizations;
5. Adequacy of the information provided by the Applicant or available to the City Manager; and
6. Ability of the project to satisfy the purpose and intent of the SMP.

B. Based upon the project evaluation, the City Manager shall take one of the following actions:
1. Approve the development or use;
2. Approve the development or use with conditions, pursuant to SVMC 21.50.070; or
3. Deny the development or use.

C. The decision by the City Manager on the development or use shall include written findings and conclusions stating the reasons upon which the decision is based.

21.50.070 Conditions of Approval

When approving any development or use, the City Manager may impose conditions to:

A. Accomplish the purpose and intent of the SMP;

B. Eliminate or mitigate any negative impacts of the project on critical areas, and on shoreline functions;

C. Restore important resource features that have been degraded or lost on the project site;

D. Protect designated critical areas and shoreline jurisdiction from damaging and incompatible development; or

E. Ensure compliance with specific development standards in SVMC 21.50.

21.50.080 Prohibited Activities and Uses

The following activities and uses are prohibited in all shoreline designations and are not eligible for a shoreline permit, including a Conditional Use or Shoreline Variance. See Table 21.50-1 and Table 21.50-2.

A. Uses not allowed in the underlying zoning district;

B. Discharge of solid wastes, liquid wastes, untreated effluents, or other potentially harmful materials;

C. Solid waste or hazardous waste landfills;

D. Speculative fill;

E. Dredging or dredge material disposal in wetlands;

F. Dredging or dredge material disposal to construct land canals or small basins for boat moorage or launching, water ski landings, swimming holes, or other recreational activities;

G. Commercial timber harvest or other forest practices;

H. Agriculture and aquaculture;

I. Non water-oriented Industrial Uses and Mining; and

J. The construction of breakwaters, jetties, groins, or weirs.

21.50.090 Minor Activities Allowed Without a Shoreline Permit or Letter of Exemption
The SMP applies to the following activities, however, they are allowed without a shoreline permit or Letter of Exemption:

A. Maintenance of existing landscaping (including paths and trails) or gardens within the shoreline, including a regulated critical area or its buffer. Examples include mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Removing trees and shrubs within a buffer is not considered a maintenance activity. See SVMC 21.50.260 for regulations regarding vegetation removal. Excavation, filling, and construction of new landscaping features are not considered a maintenance activity and may require a shoreline permit or letter of exemption.

B. Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork, or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption in SVMC 21.50.110(B).

C. Cleaning canals, ditches, drains, wasteways, etc. without expanding their original configuration is not considered additional earthwork, as long as the cleared materials are placed outside the shoreline jurisdiction, wetlands, and buffers.

D. Creation of unimproved private trails that do not cross streams or wetlands and which are less than two feet wide and do not involve placement of fill or grubbing of vegetation.

E. Planting of native vegetation.

F. Noxious weed control outside of buffers pursuant to SVMC 21.50.110(M) except for area wide vegetation removal/grubbing.

G. Noxious weed control within vegetative buffers, if the criteria listed below is met. Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:
   1. Hand removal/spraying of individual plants only; and
   2. No area-wide vegetation removal/grubbing.

H. Pruning, thinning, or dead or hazardous tree removal pursuant to SVMC 21.50.260(C).

21.50.100 Shoreline Substantial Development Permit Required

A. Classification Criteria - A Shoreline Substantial Development Permit is required for any substantial development unless the use or development is specifically exempt pursuant to SVMC 21.50.090 or 21.50.110.

B. Process - Shoreline Substantial Development Permits shall be processed as a Type II review pursuant to SVMC 17.80 Permit Processing Procedures, subject to the exceptions set forth in SVMC 21.50.050.

C. Decision Criteria - A Shoreline Substantial Development Permit may be issued when all applicable requirements of the SMA, WAC 173-27, and the SMP have been met.

21.50.110 Exemptions from Shoreline Substantial Development Permit

The activities listed below, or as amended by RCW 90.58.030(3) and WAC 173-27-040, are exempt from the requirement to obtain a Shoreline Substantial Development Permit. These activities still require a letter of exemption and may require a Shoreline Conditional Use Permit, Shoreline Variance, or other development permits from the City or other agencies.

If any part of a proposed development is not eligible for a Letter of Exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the Shoreline Substantial Development Permit.

A. Any development of which the total cost or fair market value does not exceed $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 Shoreline Substantial Development Permit is required, the total cost or fair market value shall be based on the value of development as defined in RCW 90.58.030(3). 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 legally-established structures or developments, including damage by accident, fire, or elements.
   1. Normal maintenance includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.
   2. 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.
   3. Replacement of a structure or development may be authorized as repair where such replacement is:
      a. 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
      b. The replacement does not cause substantial adverse effects to shoreline resources or environment.

C. Construction of a normal protective bulkhead common to residential lots:

1. A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing residence and appurtenant structures from loss or damage by erosion.
2. 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.
3. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM.
4. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington State Department of Fish and Wildlife (WDFW).

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 that requires immediate action within a time too short to allow full compliance with Chapter 21.50.
1. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Director to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27, or the SMP, shall be obtained.
2. All emergency construction shall be consistent with the policies and requirements of chapter 90.58 RCW and the SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

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

F. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level, and which meets all requirements of the City, other than requirements imposed pursuant to chapter 90.58 RCW. Construction authorized under this subsection shall be located landward of the OHWM.

G. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities, or other appurtenances. This exception applies when the fair market value of the dock does not exceed $22,500 for docks that are constructed to replace existing docks and are of

equal or lesser square footage than the existing dock being replaced; $11,200 for all other docks; or as amended by WAC 173-27-040. 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 amounts specified in this subsection, the subsequent construction shall be considered a substantial development. The amounts in this subsection shall automatically be adjusted as provided by the State Office of Financial Management.

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

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

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

K. Any project with a State Energy Facility Site Evaluation Council certification from the governor pursuant to RCW 80.50.

L. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
   1. The activity does not interfere with the normal public use of surface waters;
   2. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
   3. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
   4. The Applicant first posts a performance surety acceptable to the City to ensure that the site is restored to pre-existing conditions.

M. Removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Department of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.

N. Watershed restoration projects as defined in WAC 173.27.040(2)(o). The Director shall determine if the project is substantially consistent with the SMP and notify the Applicant of such determination by letter.

O. A public or private project that is designed to improve fish or wildlife habitat or fish passage as reviewed by WDFW and all of the following apply:
   1. The project has been approved in writing by the WDFW;
   2. The project has received hydraulic project approval by the WDFW pursuant to chapter 77.55 RCW; and
   3. The Director has determined that the project is substantially consistent with the SMP and shall notify the Applicant of such determination by letter.

21.50.120 Letter of Exemption

A. The proponent of an activity exempt from a Shoreline Substantial Development Permit shall apply for a Letter of Exemption. All activities exempt from the requirement for a Shoreline Substantial Development Permit shall use reasonable methods to avoid impacts to critical areas within the shoreline jurisdiction. Being exempt from the requirements for a Shoreline Substantial Development Permit does not give authority to degrade a critical area, or shoreline, or ignore risk from natural hazards.

B. The City Manager shall review the Letter of Exemption request to verify compliance with the SMP and shall approve or deny such Letter of Exemption.

C. If a Letter of Exemption is issued, it shall be sent to Ecology, the Applicant, and a copy retained by the City.

D. A Letter of Exemption may contain conditions and/or mitigating conditions of approval to achieve consistency and compliance with the provisions of the SMP and the SMA.

E. A denial of a Letter of Exemption shall be in writing and shall list the reason(s) for the denial.

21.50.130 Shoreline Conditional Use Permit

A. Classification Criteria - Shoreline conditional uses are those uses within the shoreline jurisdiction identified in Table 21.50-1 Shoreline Use Table, which require a Shoreline Conditional Use Permit.

B. Unclassified uses not specifically identified in Table 21.50-1 may be authorized through a Shoreline Conditional Use Permit, provided the Applicant can demonstrate consistency with the requirements of SVMC 21.50.

C. Process - A Shoreline Conditional Use Permit shall be processed as a Type II review pursuant to SVMC 17.80 Permit Processing Procedures. The City Manager shall be the final authority for the City, whose recommendation is then forwarded to Ecology. Ecology shall have final approval authority pursuant to WAC 173-27-200.

D. Decision Criteria - The City Manager's decision on a conditional use shall be based upon the criteria set forth in SVMC 19.150.030 and 21.50.060 Conditions and Requirements, together with the criteria established below. The Applicant shall demonstrate to the satisfaction of the City Manager that the development meets all of the following criteria:
   1. The use is consistent with the policies of RCW 90.58.020;
   2. The use will not interfere with the normal public use of public shorelines;
   3. The use of the site and design of the project is compatible with other permitted uses in the area;
   4. The use will cause no significant adverse effects to the shoreline environment designation in which it is located; and
   5. The public interest will suffer no substantial detrimental effect.

E. Consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist for similar uses and impacts, the total cumulative effect of the conditional uses shall also remain consistent

with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

F. The burden of proving that the project is consistent with the applicable criteria shall be upon the Applicant.

21.50.140 Shoreline Variance

A. The purpose of a Shoreline Variance is to grant relief to specific bulk or dimensional requirements set forth in SVMC 21.50 where extraordinary or unique circumstances exist relating to the property such that the strict implementation of the standards would impose unnecessary hardships on the Applicant, or thwart the policies set forth in the SMA and the SMP.

B. When a development or use is proposed that does not meet requirements of the bulk, dimensional, and/or performance standards of the SMP, such development may only be authorized by approval of a Shoreline Variance, even if the development or use does not require a Shoreline Substantial Development Permit.

C. Process - A Shoreline Variance shall be processed as a Type II review pursuant to SVMC 17.80 Permit Processing Procedures. Each request for a Shoreline Variance shall be considered separately and prior to any decision on a development application. Any decision to approve or conditionally approve the development will include and specifically cite only those variances approved for inclusion with the project.

D. When a Shoreline Variance is requested, the City Manager shall be the final authority for the City. The City Manager's determination shall be provided to Ecology for review. Ecology shall have final approval authority of Shoreline Variances pursuant to RCW 90.58.140(10).

E. Decision Criteria - To qualify for a Shoreline Variance, the following shall be required:
   1. Demonstrate compliance with the criteria established in SVMC 21.50.060 Authorization Decisions - Basis for Action.
   2. A Shoreline Variance request for a development or use located landward of the OHWM, or landward of any wetland shall cite the specific standard or condition from which relief is requested and be accompanied by evidence that demonstrates the variance is consistent with all of the items below:
      a. That the strict application of a standard precludes, or significantly interferes with, reasonable use of the property;
      b. That the hardship described in subsection (a) is specifically related to the property, and is a result of unique natural or physical conditions, such as irregular lot shape, size, or natural features which do not allow compliance with the standard. The site constraint shall not be the result of a deed restriction, a lack of knowledge of requirements involved when the property was acquired, or other actions resulting from the proponent's own actions;
      c. The project is generally compatible with other permitted or authorized uses in the project area, with uses planned for the area under the Comprehensive Plan and the SMP, and will not cause adverse impacts to the area;
      d. The requested variance would not constitute a grant of special privilege not enjoyed by other properties in the area, and the variance is the minimum necessary to afford the requested relief; and

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

3. A Shoreline Variance request for a development or use located waterward of the OHWM, or within any wetland shall cite the specific standard or condition from which relief is requested and be accompanied by evidence that demonstrates the variance is consistent with all of the items below:
   a. That the strict application of a standard would preclude all reasonable use of the property;
   b. That the proposal is consistent with the criteria established under subsection (2)(b) through (e) of this section; and
   c. That the public rights of navigation and use of the shorelines will not be adversely affected.
4. In the granting of any Shoreline Variance, consideration shall be given to the cumulative impact of additional requests for like variances in the area. For example, if Shoreline 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 the SMA and SMP and shall not cause substantial adverse impacts to the shoreline environment.

F. The burden of proving that a proposed variance meets the criteria of the SMP and WAC 173-27-170 shall be on the Applicant. Absence of such proof shall be a basis for denial of the application.

21.50.150 Nonconforming Development

A. Classification Criteria – A use, structure, appurtenant structure, or lot is nonconforming if it was legally established but is inconsistent with a subsequently adopted regulation or regulations. Lawful uses, structures, appurtenant structures, and lots that are deemed nonconforming are subject to the provision of this section.

B. Process and Decision Criteria
   1. Decisions on projects that require review under this section shall be made pursuant to SVMC 21.50.060 Authorization Decisions - Basis for Action and the following criteria.
   2. Legal nonconforming uses and structures shall be allowed to continue with no additional requirements except as otherwise addressed in this section.
   3. Nonconforming Uses.
      a. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to the SMP.
      b. Intensification or expansion of nonconforming uses that will not result in an increase of nonconformity shall be allowed and will be processed under these nonconforming provisions as a Type II review, pursuant to SVMC Title 17.80 Permit Processing Procedures.
      c. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status provided that the use does not change or intensify.
      d. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.
      e. Conversion from one nonconforming use to another may only be approved through a Shoreline Conditional Use Permit pursuant to SVMC 21.50.130(E) if the following additional criteria are met:
         i. The property is located within a residential or conservancy shoreline environment;

ii. The replacement use is either of a similar intensity to the previous nonconforming use, or is more conforming with the intent of the applicable Shoreline Environment Policies; and

iii. The impacts to the shoreline ecological functions from the existing use are reduced by changing the use.

f. When the operation of a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, the nonconforming use rights shall expire and the future use of such property shall meet all current applicable regulations of the SMP.

g. If a conforming building housing a nonconforming use is damaged, the use may be resumed at the time the building is repaired, provided a permit application for the restoration is received by the City within 12 months following said damage.

h. Normal maintenance and repair of a structure housing a nonconforming use may be permitted provided all work is consistent with the provisions of the SMP.

i. Legally established residences are considered conforming uses.

4. Nonconforming Structures.

a. A nonconforming structure may be maintained or repaired, provided such improvements do not increase the nonconformity of such structure and are consistent with the remaining provisions of the SMP.

b. Alterations to legal nonconforming structures that:

i. Will result in an increase of nonconformity to the structures, including expanding within the buffer, may be allowed under a Shoreline Variance pursuant to SVMC 21.50.140; or

ii Do not increase the existing nonconformity and will otherwise conform to all other provisions of SVMC 21.50 are allowed without additional review.

c. A nonconforming structure that is moved any distance within the shoreline jurisdiction shall be brought into conformance with the SMP.

d. A damaged nonconforming structure may be reconstructed or replaced, regardless of the amount of damage if:

i. The rebuilt structure or portion of structure does not expand or modify the original footprint or height of the damaged structure unless:

(1). The expansion or modification does not increase the degree of nonconformity with the current regulations; and

(2). The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or the shoreline environment;

ii. It is not relocated except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;

iii. The permit application to restore the development is made within 12 months of the date the damage occurred; and

iv. Any residential structures, including multi-family structures, may be reconstructed up to the size, placement, and density that existed prior to the damage, so long as other provisions of the SMP are met.

5. Nonconforming Lots. Legally established nonconforming, undeveloped lots located landward of the OHWM are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height, and other construction requirements of the SMP and the SMA.

21.50.160 Minor Revisions to Approved Uses or Developments

A. Classification Criteria - Minor revisions to a project that have been approved under a shoreline permit are allowed in certain circumstances.

1. Changes that are not substantive are not required to obtain a revision and may be allowed as part of the original shoreline permit. Examples include, but are not limited to, minor changes in facility orientation or location, minor changes in structural design that do not change the height or increase ground floor area, and minor accessory structures such as equipment covers or small sheds near the main structure.
2. Substantive changes are those that materially alter the project in a manner that relates to its conformance with the shoreline permit and SMP requirements. Such changes may be approved as a minor revision if:
   a. The City Manager determines that the proposed revision and all previous revisions are within the scope and intent of the original shoreline permit;
   b. The use authorized with the original shoreline permit does not change;
   c. The project revision does not cause additional significant adverse environmental impacts;
   d. No new structures are proposed; and
   e. The criteria in SVMC 21.50.160(A)(3) are met.
3. Substantive changes shall comply with the following to be approved as a minor revision:
   a. No additional over-water construction shall be involved, except that pier, dock, or swimming float construction may be increased by 10 percent from the provisions of the original shoreline permit;
   b. Lot coverage and height approved with the original shoreline permit may be increased a maximum of 10 percent if the proposed revisions do not exceed the requirements for height or lot coverage pursuant to SVMC 21.50.220 Dimensional Standards and SVMC Title 19 Zoning Regulations; and
   c. Landscaping may be added to a project without necessitating an application for a new shoreline permit if the landscaping is consistent with permit conditions (if any) and SVMC 21.50.
4. Substantive changes which cannot meet these requirements shall require a new shoreline permit. Any additional shoreline permit shall be processed under the applicable terms of this chapter.

B. Process - Requests for minor revisions to existing shoreline permits shall be processed as a Type I review, pursuant to SVMC Title 17.80 Permit Processing Procedures. Parties of record to the original shoreline permit shall be notified of the request for revision, although a comment period is not required. A minor revision for a project within shoreline jurisdiction shall follow state filing, appeal, and approval standards pursuant to WAC 173-27-100 Revisions to Permits.

C. Decision Criteria - Decisions on minor revisions shall be pursuant to SVMC 21.50.060 Authorization Decisions – Basis for Action.

21.50.170 Enforcement

A. Enforcement of the SMP, including the provisions of SVMC 21.50, shall be pursuant to SVMC 17.100. Nothing herein or within SVMC 17.100 shall be construed to require enforcement of the SMP and SVMC 21.50 in a particular manner or to restrict the discretion of the City Manager in determining how and when to enforce the SMP and SVMC 21.50; provided all enforcement shall be consistent with the policies of the SMP and SVMC 21.50.

B. Upon a determination that a violation of the SMP, including SVMC 21.50, has occurred, no further development may be authorized unless and until compliance with any applicable shoreline and development permit or process conditions and requirements of SVMC 21.50 have been achieved to the satisfaction of the City Manager.

C. For violations affecting a critical area, the party(s) responsible for the violation and the owner shall meet the following minimum performance standards to achieve the restoration requirements, as applicable:

1. A restoration plan shall be prepared and address the following:
   a. Restoration of historical structural and functional values, including water quality and habitat functions;
   b. Ensure that replacement soils will be viable for planting and will not create a less fertile growing conditions;
   c. Replacement of native vegetation within the critical area, and buffers with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities;
   d. Replication of the historic functions and values at the location of the alteration;
   e. Annual performance monitoring reports demonstrating compliance with mitigation plan requirements shall be submitted for a minimum two-year period; and
   f. As-built drawings and other information demonstrating compliance with other applicable provisions of the SMP shall be submitted.
2. The following additional performance standards shall be met for restoration of frequently flooded areas and geological hazards and be included in the restoration plan:
   a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;
   b. Any risk of personal injury resulting from the alteration shall be eliminated; and
   c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.
3. The City Manager may, at the violator's expense, consult with a Qualified Professional to determine if the plan meets the requirements of the SMP. Inadequate plans shall be returned to the violator for revision and resubmittal.

Article II. Shoreline Regulations

21.50.180 General provisions

A. General Regulations.

1. Regulations in SVMC 21.50.180 through 21.50.290 are in addition to the specific use regulations in SVMC 21.50.300 through 21.50.450 and other adopted rules,

including but not limited to the Spokane Valley Municipal Code, the Spokane Valley Comprehensive Plan, the Spokane Valley Street Standards, and the Spokane Regional Stormwater Manual, as adopted or amended.

2. All permitted and exempt projects within the shoreline jurisdiction shall ensure that the no net loss of ecological functions standard is met. SVMC 21.50.210 No Net Loss and Mitigation Sequencing and SVMC 21.50.260 Shoreline Vegetation Conservation contain appropriate methods to achieve no net loss of shoreline ecological function. The City may also condition project dimensions, location of project components on the site, intensity of use, screening, parking requirements, and setbacks, as deemed appropriate.
3. All shoreline uses and modifications shall obtain all necessary permits from the appropriate local, state, and federal agencies and shall operate in compliance with all permit requirements.
4. Deviations from regulations may be granted through a Shoreline Variance, which requires approval by both the City and Ecology. Shoreline modifications listed in Table 21.50-2 as "prohibited" are not eligible for consideration as a Shoreline Variance.
5. New projects, including the subdivision of land and related construction of single-family residences, are prohibited when the use or development requires structural flood hazard reduction or other structural stabilization measures within the shoreline to support the proposed or future development.
6. When a proposal contains two or more use activities, including accessory uses, the most restrictive use category shall apply to the entire proposal.
7. Structures, uses, and activities shall be designed and managed to minimize blocking, reducing, or adversely interfering with the public's visual access to the water and the shorelines from public lands which are within the shoreline jurisdiction and excluding public roads.
8. Structures and sites shall be designed with landscaping, vegetated buffers, exterior materials, and lighting that are aesthetically compatible with the shoreline environment.
9. When a study is required to comply with SVMC 21.50, it shall be performed by Qualified Professional registered in the State of Washington.
10. All clearing and grading activities shall comply with SVMC 24.50 Land Disturbing Activities. Adherence to the following is required during project construction:
    a. Materials adequate to immediately correct emergency erosion situations shall be maintained on site;
    b. All debris, overburden, and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body. Such materials from construction shall not be stored or disposed of on or adjacent to Shorelines of the State;
    c. The shoreline buffer shall be clearly marked on the ground prior to and during construction activities to avoid impacts to the buffer; and
    d. Infrastructure used in, on, or over the water shall be constructed using materials that do not contaminate the water or interfere with navigation.

B. The City may consult with agencies with expertise or jurisdiction over the resources during the review of any permit or process to assist with analysis and identification of appropriate performance measures that adequately safeguard shoreline and critical areas.

C. The City Manager may consult with a Qualified Professional to review a critical areas report when City staff lack the resources or expertise to review these materials. The City may require the Applicant to pay for or reimburse the City for the consultant fees.

21.50.190 Shoreline Uses Table

A. Uses and activities are categorized within each shoreline environment as allowed, permitted, conditional use, or prohibited, as defined in this section. This priority system determines the applicable permit or process, administrative requirements, and allows activities that are compatible with each shoreline designation. Procedures and criteria for obtaining a Shoreline Substantial Development Permit, Letter of Exemption, Shoreline Conditional Use Permit, and Shoreline Variance are set forth in SVMC 21.50.040. These uses shall also meet the requirements of SVMC Title 19 Zoning Regulations.

B. The following terms shall be used in conjunction with Shoreline Use and Modification Tables provided in SVMC 21.50.190 and SVMC 21.50.200.

Allowed Use: These are uses that are exempt from the shoreline permit review process and do not require submittal of a Shoreline Substantial Development Permit or Letter of Exemption application. Projects or uses shall be reviewed to ensure that all requirements contained in SVMC 21.50 are met. Building permit applications or site plans are the general method of review.

Permitted Use: These are uses which are preferable and meet the policies of the particular shoreline environment designation. They require submittal of a Shoreline Substantial Development Permit or a Letter of Exemption application. An exemption is subject to an administrative approval process; a Shoreline Substantial Development Permit requires public notice, comment periods, and filing with Ecology.

Conditional Use: A Shoreline Conditional Use Permit is intended to allow for flexibility and the exercise of judgment in the application of regulations in a manner consistent with the policies of the SMA and the SMP.

Prohibited: These are uses which are viewed as inconsistent with the definition, policies, or intent of the shoreline environmental designation. For the purposes of the SMP, these uses are considered inappropriate and are not authorized under any permit or process.

Table 21.50-1 - Shoreline Uses, below, shall be used to determine the permit or process required for specific shoreline uses and activities within the shoreline jurisdiction.

Table 21.50-1: Shoreline Uses

SHORELINE USES	Shoreline Residential –Upland	Shoreline Residential – Waterfront	Urban Conservancy	Urban Conservancy – High Quality	Aquatic
Agricultural Activities					
Aquaculture					
Boating Facilities (Including launches, ramps, public/commercial docks, and private docks serving more than four residences)	N/A	P	C		[1]
Commercial Use					
Water-dependent		P[2]	P[2]		C
Water-related and water-enjoyment	P[2]	P[2]	P[2]		C
Non water-oriented			P[2,3]		
Forest Practices					
Industrial Use					
Water-dependent			P		C
Water-related and water-enjoyment			P		
Non water-oriented			P[3]		
In-stream Structures					
As part of a fish habitat enhancement project	N/A	P	P	P	P
Other	N/A	P	P		P
Mining					
Parking Facilities					
As a primary use					
As an accessory/secondary use	P	P	P	C	
Recreational Use					
Water-dependent	P	P	P	P	P
Water-related and water-enjoyment	P	P	P	P	P
Non water-oriented	P	P	P	C[4]	C
Trails and walkways	P	P	P	C[5]	P
Residential Use					
Single-family	A	A	A	A	
Single-family residential accessory uses and structures	A	A	A	A	
Multi-family	P	P	P		
Private docks serving one to four single-family residences	N/A	P	P	P	
Accessory Dwelling Units	A	A	A	A	

Transportation Facilities					
New circulation routes related to permitted shoreline activities	P	P	C	C	
Expansion of existing circulation systems	P	P	P	P	
New, reconstructed, or maintenance of bridges, trail, or rail crossings	P	P	P	P	P
Public Facilities and Utilities					
Public facilities	C	C	C		C
Utilities and utility crossings	C	C	C	C	C
Routine maintenance of existing utility corridor and infrastructure	A[6]	A[6]	A[6]	P[7]	A[6]

KEY: A= Allowed P= Permitted C= Conditional Use Blank= Prohibited N/A= Not Applicable

Notes:

[1] For Boating Facilities within the aquatic environment, the adjacent upland environment as set forth on the City Environment Designation Map shall govern (i.e., if the aquatic environment is adjacent to Shoreline Residential - Waterfront designated shorelines, the use would be permitted).

[2] Commercial uses are allowed in the Shoreline Residential - Upland, Shoreline Residential - Waterfront and Urban Conservancy Environments only if the underlying zoning of the property is Mixed Use Center.

[3] Permitted only if the applicable criteria in SVMC 21.50.320(B)(1) or 21.50.330(B)(1) are met.

[4] Non water-oriented recreation uses are prohibited in Urban Conservation - High Quality Shorelines except limited public uses that have minimal or low impact on shoreline ecological functions, such as the Centennial Trail and appropriately-scaled day use areas which may be allowed through a Conditional Use Permit.

[5] Modifications, improvements, or additions to the Centennial Trail are permitted in the Urban Conservancy - High Quality Environment.

[6] A Letter of Exemption is required if the maintenance activity involves any ground disturbing activity.

[7] A Letter of Exemption is required.

21.50.200 Shoreline Modification Activities Table

Table 21.50-2, Shoreline Modification Activities, below, shall be used to determine whether a specific shoreline modification is allowed in a shoreline environment. Shoreline modifications may be permitted, approved as a conditional use, or prohibited, pursuant to SVMC 21.50.190. Shoreline modifications shall also meet the requirements of SVMC Title 19 Zoning Regulations.

Table 21.50-2: Shoreline Modification Activities

SHORELINE MODIFICATION ACTIVITY	Shoreline Residential –Upland	Shoreline Residential – Waterfront	Urban Conservancy	Urban Conservancy – High Quality	Aquatic
Shoreline/Slope Stabilization					
Structural, such as bulkheads		P	P		
Nonstructural, such as soil bioengineering		P	P	P	[1]
Piers and Docks					
Piers	N/A	P	C		
Viewing Platforms	P	P	P		
Docks	N/A	P	C		[1]
Dredging and Fill					
Dredging	C	C	C		C
Fill	C	C	C		C
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P
Groins and Weirs	N/A	C	C		C

KEY: P= Permitted C= Conditional Use Blank= Prohibited N/A= Not Applicable

[1] For these uses within the aquatic environment, the adjacent upland environment as set forth on the Environment Designation Map shall govern (i.e., if the aquatic environment is adjacent to Shoreline Residential - Waterfront designated shorelines, "hard" shoreline stabilization measures would be allowed by Shoreline Substantial Development Permit).

21.50.210 No Net Loss and Mitigation Sequencing

A. Applicability. This section applies to all shoreline activities, uses, development, and modifications, including those that are exempt from a Shoreline Substantial Development Permit.

B. Standards.

1. All projects shall result in no net loss of shoreline ecological functions. The requirement for no net loss may be met through project design, construction, and operations. Additionally, this standard may be achieved by following the mitigation sequencing pursuant to SVMC 21.50.210(B)(4) and SVMC 21.50.260 Shoreline Vegetation Conservation. The City may condition project dimensions, location of project components on the site, intensity of use, screening, parking requirements, and setbacks, as deemed appropriate to achieve no net loss of shoreline ecological function.
2. Required mitigation shall not exceed the level necessary to ensure that the proposed use or development will ensure no net loss of shoreline ecological functions.
3. Mitigation sequencing pursuant to SVMC 21.50.210(B)(4) is required when specified in these regulations or for projects that:

a. Involve shoreline modifications;
b. Request a buffer or setback reduction pursuant to SVMC 21.50.230 Shoreline Buffers and Building Setbacks;
c. Are located within a wetland or its buffer; or
d. Will have significant probable adverse environmental impacts that must be avoided or mitigated.

4. Mitigation measures shall be applied in the following order:
   a. Avoid the impact altogether by not taking a certain action or parts of an action;
   b. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology;
   c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;
   d. Reduce or eliminate the impact over time by preservation and maintenance operations;
   e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
   f. Monitor the impact and the compensation projects and take appropriate corrective measures, as needed.

21.50.220 Height Limit Standards

A. Applicability. This section applies to all new or redeveloped primary and residential accessory structures.

B. Standards.
   1. The maximum height limit for all new or redeveloped primary structures shall be 35 feet.
   2. The maximum height limit for single-family residential accessory or appurtenant structures shall be 25 feet.
   3. These height limit standards may be altered through a Shoreline Variance pursuant to SVMC 21.50.140.

21.50.230 Shoreline Buffers and Building Setbacks

A. Applicability. This section applies to all new construction, new and expanded uses, and modifications. Shoreline buffers are shown on the City Shoreline Buffer Map in Appendix A-2 Shoreline Buffers.

B. Standards.
   1. Unless otherwise specified in SVMC 21.50, buffers shall be maintained in predominantly natural, undisturbed, undeveloped, and vegetated condition.
   2. The shoreline buffer shall be clearly marked on the ground prior to and during construction activities to avoid impacts to the buffer.
   3. Shoreline buffers for new and expanded uses may be reduced up to 25 percent by the City Manager if the buffer widths have not been reduced or modified by any other prior action and one or more of the following conditions apply:
      a. Adherence of the buffer width would not allow reasonable use;
      b. The buffer contains variations in sensitivity to ecological impacts due to existing physical characteristics; i.e. the buffer varies in slope, soils, or vegetation. This shall be supported by a Habitat Management Plan developed in conformance with SVMC 21.50.540(F)(1)(b); or

c. Where shoreline restoration is proposed consistent with the City's Restoration Plan.

4. Building Setback from the shoreline buffer shall be as shown in Table 21.50-3:

Table 21.50-3 Buffer Building Setbacks

Environment	Urban Conservancy	Urban Conservancy – High Quality	Shoreline Residential - Upland	Shoreline Residential - Waterfront
Setback	10 foot	15 foot	0 foot [1]	0 foot [1]

[1] A 15-foot building setback from the shoreline buffer shall be required for any subdivision, binding site plan, or planned residential development in the Shoreline Residential – Upland and Shoreline Residential – Waterfront designations.

a. Front, rear, and side setbacks and lot coverage shall conform to the SVMC Title 19, Zoning Regulations.

21.50.240 Flood Hazard Reduction

A. Applicability. This section applies to development proposals:
1. Intended to reduce flood damage or hazard;
2. To construct temporary or permanent shoreline modifications or structures within the regulated floodplains or floodways; or
3. That may increase flood hazards.

B. Standards.
1. All proposals shall conform to SVMC 21.30 Floodplain Regulation, SVMC 21.50.340, In-stream Structures and SVMC 21.50.410 Shoreline Modifications.
2. The following uses and activities may be allowed within the floodplain or floodway:
   a. Actions or projects that protect or restore the ecosystem-wide processes and/or ecological functions;
   b. New bridges, utility lines, and other public utility and transportation structures, with appropriate mitigation, where no other feasible alternative exists;
   c. Repair and maintenance of an existing legal structure, utility corridor, or transportation structure, provided that such actions do not increase flood hazards to other uses;
   d. Modifications, expansions, or additions to an existing legal use; and
   e. Measures to reduce shoreline erosion.
3. Natural in-stream features such as snags, uprooted trees, or stumps shall be left in place unless an engineered assessment demonstrates that they are causing bank erosion or higher flood stages.

21.50.250 Public Access

A. Applicability. This section applies to all new projects by public and private entities.

B. Standards.
1. Public access shall be consistent with the City's SMP Public Access Plan.

2. Public access may only be required as a condition of approval of a Shoreline Substantial Development Permit or Conditional Use Permit to the extent allowed by law and in a manner consistent with the City's Public Access Plan, and only in the following circumstances:
    a. The use or development is a public project; or
    b. The project is a private use or development and one of the following conditions exists:
        i. The project impacts, interferes with, blocks, discourages, or eliminates existing access;
        ii. The project increases or creates demand for public access that is not met by existing opportunities or facilities; or
        iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.
3. Public access shall not be required for activities qualifying for a letter of exemption or new single-family residential development of four or fewer units.
4. All developments, including shoreline permits or letter of exemption applications, which require or propose public access shall include a narrative that identifies:
    a. Impacts to existing access, including encroachment, increased traffic, and added populations;
    b. The access needs of the development consistent with those described for similar projects in the Public Access Plan, Section Four; and
    c. The proposed location, type, and size of the public access.
5. When public access is required pursuant to SVMC 21.50.250(B)(2)(b), the City shall impose permit conditions requiring public access that are roughly proportional to the impacts caused or the demand created by the proposed use or development.
6. Prior to requiring public access as a condition of approval of any shoreline permit or letter of exemption pursuant to SVMC 21.50.250(B)(2)(b), the City Manager shall determine and make written findings of fact stating that the use or development satisfies any of the conditions in SVMC 21.50.250(B)(2)(b) and that any public access required is roughly proportional to the impacts caused or the demand created by the proposed use or development.
7. When public access is required or proposed, the following shall apply:
    a. Mitigation sequencing shall be required to mitigate adverse impacts resulting from the public access.
    b. Visual access to the shoreline may be established if any vegetation removal is pursuant to SVMC 21.50.260 Shoreline Vegetation Conservation.
    c. Public access sites shall be connected to the nearest public street or other public access point.
    d. Future trails on private property, including trail extensions and new access points, shall incorporate enhancement and restoration measures and be contained within a recorded easement.
    e. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the project or activity.
    f. Public and private entities may establish user regulations, including hours of operation, usage by animals or motorized vehicles, and prohibited activities, such as camping, open fires, or skateboarding. Such restrictions may be approved by the City Manager as part of the permit review process.

g. Public access improvements shall include provisions for disabled and physically impaired persons where reasonably feasible.

h. Signage associated with public access shall be pursuant to SVMC 21.50.380 Signs and Outdoor Lighting, and SVMC 22.110 Sign Regulations.

21.50.260 Shoreline Vegetation Conservation

A. Applicability. Vegetation conservation measures are required for all projects that propose vegetation removal.

B. Standards.

1. A vegetation management plan shall be submitted for projects that propose to remove either of the following within the shoreline jurisdiction:
   a. One or more mature native trees greater than 12 inches in diameter at chest height; or
   b. More than 10 square feet of native shrubs and/or native ground cover at any one time by clearing, grading, cutting, burning, chemical means, or other activities.
2. When required, a vegetation management plan shall contain the following:
   a. A site plan showing:
      i. The distribution of existing plant communities in the area proposed for clearing and/or grading;
      ii. Areas to be preserved;
      iii. Areas to be cleared; and
      iv. Trees to be removed.
   b. A description of the vegetative condition of the site that addresses the following:
      i. Plant species;
      ii. Plant density;
      iii. Any natural or man-made disturbances;
      iv. Overhanging vegetation;
      v. The functions served by the existing plant community (e.g., fish and wildlife habitat values, slope stabilization); and
      vi. The presence and distribution of noxious weeds.
   c. A landscape plan showing:
      i. Proposed landscaping, including the species, distribution, and density of plants; the plan should be pursuant to SVMC 21.50.260(B)(3)(b), if applicable; and
      ii. Any pathways or non-vegetated portions, and the materials proposed.
3. Projects that propose to remove native vegetation within a shoreline buffer shall meet the following standards:
   a. The Applicant must demonstrate to the City Manager's satisfaction that the proposed vegetation removal is consistent with SVMC 21.50.210 No Net Loss and Mitigation Sequencing, and that avoidance is not feasible;
   b. Vegetation shall be replaced per the following:
      i. 1:1 area ratio for herbaceous vegetation;
      ii. 2:1 stem ratio for shrubs and saplings; and
      iii. 3:1 ratio for trees greater than 12 inches diameter at breast height or 2:1 ratio if tree stock is five years old or greater. For native

trees greater than 16 inches diameter at breast height, replacement tree stock shall be at least five years old;

c. All removed native plants shall be replaced with native vegetation; removed ornamental plants may be replaced with similar species;

d. Applicant shall submit a vegetation management plan consistent with SVMC 21.50.260(B)(2) that demonstrates compliance with the standards of SVMC 21.50.260(B)(3); and

e. Projects that propose a pathway or trail in the shoreline buffer shall meet the additional following standards:

i. Pathways and trails that are roughly parallel to the OHWM may be allowed if:

(1) It is a public non-motorized multi-use equestrian or pedestrian/bike trail;

(2) It is located at the landward edge of the shoreline buffer with the following exceptions:

(a) When physical constraints, public safety concerns, or public ownership limitations merit otherwise; or

(b) When the trail will make use of an existing constructed grade such as those formed by an abandoned rail grade, road, or utility.

ii. Pathways, trails, and river crossings that are perpendicular to the water, and lead to the OHWM, shall be sited in a location that has the least impact to shoreline ecological functions with mitigation sequencing pursuant to SVMC 21.50.210. Previously altered or disturbed locations shall be preferred.

iii. All pathways and trails shall be located, constructed, and maintained so as to avoid, to the maximum extent possible, removal and other impacts to perennial native vegetation, including trees, standing snags, forbs, grasses, and shrubs, consistent with the vegetation management plan.

iv. Alternatives to impervious paving should be considered and are encouraged.

v. Total trail width, inclusive of shoulders, shall be the minimum width necessary to achieve the intended use and shall not exceed 14 feet.

vi. Disturbed areas (outside of the designated trail and trail shoulders) shall be re-vegetated with native vegetation consistent with the vegetation management plan.

vii. Public, non-motorized multi-use equestrian pedestrian/bike trails shall only be allowed in the shoreline buffer for the Urban Conservancy-High Quality environment designation to connect to or from (in phases or otherwise) an existing regional multi-use non-motorized trail and only pursuant to SVMC 21.50.260(B).

viii. Encroachments in the buffer allowed by the exceptions listed above shall be the minimum necessary to provide for the permitted use.

4. A performance surety may be required as a condition of shoreline permit approval to ensure compliance with the SMP. The performance surety shall be substantially in the same form and for the same coverage as provided for in the City's Street Standards as adopted or amended.

5. Projects that require a critical areas report pursuant to SVMC 21.50.490 shall incorporate any specific vegetation conservation measures identified in the critical areas reports for the identified critical areas. Any application of pesticides, herbicides, fertilizers, or other chemicals proposed in conjunction with the vegetation removal or management activities shall be addressed by the report.

C. Minor vegetation conservation activities allowed without a shoreline permit or letter of exemption.

1. Pruning and thinning of trees or vegetation on public or private land for maintenance, safety, forest health, and view protection if the criteria listed below are met:
   a. No native vegetation is removed, including thinning;
   b. Pruning of native vegetation shall not exceed 30 percent of a tree's limbs. Tree topping shall not occur;
   c. Native shrubs shall not be pruned to a height less than six feet;
   d. Pruning any vegetation waterward of the OHWM is prohibited; and
   e. Pruning of any vegetation and thinning activities associated with non-native plants shall ensure the continued survival of vegetation.

   Whenever possible, pruning and thinning activities conducted to maintain or create views shall be limited to areas dominated with non-native vegetation and invasive species. Pruning and thinning on public land to establish a view for adjacent properties shall be prohibited unless written approval from the Washington State Parks Riverside Area Manager is given.
2. Pruning and thinning within a utility corridor by the utility service provider of both native and non-native trees and vegetation shall be allowed when the following criteria are met:
   a. Reasonable measures to reduce the adverse effects of the activity are implemented; and
   b. No net loss of buffer functions and values occur.
3. Dead or hazardous trees within the shoreline buffer that pose a threat to public safety or a risk of damage to private or public property may be removed if a letter from a certified arborist or Qualified Professional is submitted that confirms the tree is dead or is hazardous and includes:
   a. Removal techniques;
   b. Procedures for protecting the surrounding area; and
   c. Replacement of native trees, if applicable. Where possible, hazard trees within the shoreline buffer shall be turned into snags.

21.50.270 Water Quality, Stormwater, and Non-Point Pollution

A. Applicability. This section applies to all projects that add any pollution-generating impervious surfaces. This standard supersedes the regulatory threshold specified in the Spokane Regional Stormwater Manual, which is applicable outside the shoreline jurisdiction.

B. Regulations.

1. All activities shall comply with the SVMC 22.150 Stormwater Management Regulations, the Environmental Protection Agency's Underground Injection Control program, the Eastern Washington Phase II Municipal Stormwater Permit requirements, applicable total maximum daily loads laws and regulations, and other water cleanup plans.

2. Use of chemicals for commercial or industrial activities shall be pursuant to SVMC 21.50.530(C).
3. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a water body, except by a Qualified Professional in accordance with state and federal laws.

21.50.280 Archaeological and Historic Resources

A. Applicability. This section applies to:
   1. Projects with archaeological and historic resources on site that are either recorded at the Washington State Department of Archeology and Historic Preservation (DAHP), or Spokane County;
   2. Projects where archaeological and historical resources have been inadvertently uncovered; or
   3. Permit applications that contain a ground-disturbing component.

B. Standards.
   1. Archaeological sites are subject to chapter 27.44 RCW Indian Graves and Records and chapter 27.53 RCW Archaeological Sites and Records. Development or uses that may impact such sites shall comply with WAC 25-48 as well as the regulations of this section.
   2. A cultural resources site survey or assessment prepared by a Qualified Professional is required for all shoreline permit applications that contain a ground-disturbing component if the proposal meets the criteria below, which may be determined through review of Spokane County and/or DAHP resources:
      a. The project is on property known to contain archaeological, historic, or cultural resources; or
      b. The project is in an area mapped as having the potential for the presence of archaeological, historic, or cultural resources.
   3. When required, the cultural resources site survey or assessment shall:
      a. Use standard procedures and methods to assess the potential for presence of archaeological, historic, or cultural resources that could be impacted by the project;
      b. Provide appropriate recommendations for protecting and preserving the archaeological, historical, or cultural resources;
      c. Make an inventory of buildings or structures over 50 years in age located within the project area in a DAHP Historic Property Inventory Database entry; and
      d. Record archaeological sites located within the project area on DAHP Archaeological Site Inventory Forms.
   4. When required, the cultural resources site survey or assessment shall be circulated to DAHP and affected tribe(s). The City Manager shall consider comments from DAHP and affected tribe(s) prior to approval of the survey or assessment. Based on the cultural resources site survey or assessment, the application may be conditioned to ensure that such resources are protected.
   5. If archaeological, historic, or cultural resources are inadvertently discovered or uncovered during excavation, the Applicant shall immediately stop work on that portion of the project site and notify the City. The Applicant may be required to prepare a cultural resources site survey or assessment pursuant to SVMC 21.50.280(B)(3), after coordinating with DAHP.

21.50.290 Gravel Pits

A. Applicability. This section applies to existing and active gravel pit operations including but not limited to known gravel pits located at 2010 North Sullivan Road and 220 North Thierman Road.

B. Standards. Active gravel pits are not regulated as Shorelines of the State until reclamation is complete and the Washington State Department of Natural Resources terminates the Surface Mine Reclamation Permit. Proposed subsequent use of mined property shall be consistent with the provisions of the Urban Conservancy Environment unless a different environmental designation is established through an amendment pursuant to WAC 173-26-201.

21.50.300 Specific Shoreline Use Regulations

Applicability. The regulations in SVMC 21.50.300 through 21.50.450 apply to specific common uses and types of development to the extent they occur within the shoreline jurisdiction.

21.50.310 Boating Facilities

A. Applicability. This section applies to new and existing boating facilities.

B. Standards.

1. Boating facilities shall:
   a. Be allowed only for water-dependent uses or for public access;
   b. Be limited to the minimum size and height necessary to achieve the intended purpose of the facility; and
   c. Incorporate measures for cleanup of accidental spills of contaminants.
2. Public boating facilities shall be located only at sites identified in the Public Access Plan.
3. All new boating facilities shall incorporate public access when required by the Public Access Plan and SVMC 21.50.250 herein.
4. New launch ramps shall be approved only if public access is provided to public waters which are not adequately served by existing access facilities because of location or capacity. Documentation of need shall be required from the Applicant prior to approval pursuant to SVMC 21.50.250 Public Access.
5. Existing boating facilities may be maintained and repaired pursuant to SVMC 21.50, provided the size is not increased.
6. In addition to the regulations above, boating facilities shall comply with SVMC 21.50.320 Commercial Use, SMVC 21.50.360 Recreational Development and Use, and SVMC 21.50.430 Piers and Docks, as applicable.

21.50.320 Commercial Use

A. Applicability. This section applies to all commercial uses.

B. Standards.

1. New non water-oriented commercial uses shall be prohibited, except within the Urban Conservancy Environment, where such uses may be permitted if:
   a. The use is part of a mixed-use project that includes water-dependent uses; and
   b. Provides a significant public benefit, such as public access or ecological restoration; or
   The site is physically separated from the shoreline by another parcel or public right-of-way.

2. New commercial uses shall comply with the following criteria:
   a. Windows, breezeways, and common areas should be oriented towards the shoreline or recreational amenities on the site;
   b. Buildings should provide at least one main entry that orients toward the shoreline, not including a service entry;
   c. Architectural features that reduce scale shall be incorporated, such as pitched roofs, offsets, angled facets, and recesses;
   d. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light;
   e. Building mechanical equipment, noise generating systems, vents, utility cabinets, and small scale service elements shall be incorporated into building architectural features, such as pitched roofs. Where it is not possible to incorporate into architectural features, a landscaping screen consistent with SVMC 22.70.030(C) shall be utilized;
   f. Screening and buffering, or other visual screen consistent with the building exterior material and colors, shall be provided that conceals view of such equipment from the shoreline;
   g. Commercial uses shall be screened from any adjacent residential uses by providing a Type I-Full Screening Buffer pursuant to SVMC 22.70 Fencing, Screening, and Landscaping;
   h. Landscaping within the shoreline setback area shall incorporate native plant materials;
   i. Loading docks and maintenance facilities shall be located away from the shoreline to minimize visual, noise, or physical impacts on the site, street, adjacent public open spaces, and adjacent properties; and
   j. A site plan and landscaping plan shall be submitted showing all the applicable items listed in SVMC 21.50.320(B)(2).
3. Commercial wireless communication facilities shall not be allowed within the shoreline jurisdiction.
4. Home occupations shall be allowed within the Shoreline Residential - Upland and Shoreline Residential - Waterfront designations pursuant to SVMC 19.40.140 Home Occupations.

21.50.330 Industrial Use

A. Applicability. This section applies to all new Industrial uses, including uses involved in processing, manufacturing, assembly, and storage of finished or semi-finished goods and food products.

B. Standards.
   1. New non water-oriented industrial uses shall be prohibited, except within the Urban Conservancy Environment, where such uses may be permitted if the use is part of a mixed-use project that includes water-dependent use and:
      a. Provides a significant public benefit such as providing public access and ecological restoration; or
      b. The site is physically separated from the shoreline by another parcel or public right-of-way.
   2. Industrial development shall be located, designed, constructed, and operated to avoid visual impacts to users of the Spokane River and Centennial Trail.
   3. New industrial uses shall comply with the requirements of SVMC 21.50.320(B)(2) and (3).

4. Noise associated with operations or equipment, including volume, repetitive sound, or beat, shall be muffled or otherwise controlled so that it is not audible at a distance over 30 feet from the landward boundary of a buffer.

21.50.340 In-Stream Structures

A. Applicability. This section applies to all projects proposing in-stream structures.

B. Standards.

1. In-stream structures shall conform with the requirements of the U.S. Army Corps of Engineers, WDFW, SVMC 21.50.240 Flood Hazard Reduction, SVMC 21.50.270 Water Quality, Stormwater and Non-Point Pollution, SVMC 21.50.410 General Regulations for Specific Shoreline Modifications, and any other applicable federal, state, and local requirements.
2. In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources pursuant to WAC 173-26-241(3)(g).

21.50.350 Parking Facilities

A. Applicability. This section applies to all new parking facilities.

B. Regulations.

1. A parking facility is permitted only if:
   a. It directly serves a permitted shoreline use, including the Centennial Trail, direct river access, and use areas; and
   b. It is not the primary use; for example, it cannot be a stand-alone parking facility.
2. Parking facilities serving individual buildings within the shoreline jurisdiction shall be located:
   a. Landward from the principal building being served; or
   b. Within or beneath a structure.
3. Parking facilities shall be screened from the shoreline and less intense adjacent land uses by providing a Type I - Full Screening Buffer pursuant to SVMC 22.70.030(B) Fencing, Screening, and Landscaping. A majority of the plant materials proposed to meet the vegetation mix requirements shall be native plants.
4. Parking shall be pursuant to SVMC 22.50 Off-Street Parking and Loading Standards.
5. Private projects, excluding single-family residential projects, which include public access features shall dedicate parking stalls for public use that are in addition to the number of parking stalls necessary to serve the proposed development pursuant to SVMC 22.50 Off-Street Parking and Loading Standards:
   a. Projects shall provide and dedicate additional parking for public use. Applicants shall either use a presumptive standard of one additional space for public parking for every 25 parking spaces required to serve the proposed development or provide an assessment of public access need which supports a different ratio. Any proposal to change from this presumptive standard shall be approved by the City Manager, which approval shall be based upon the unique factual circumstances of the development and surrounding shoreline uses;
   b. Spaces that are dedicated for public use shall be marked with appropriate signage; and

c. Stalls dedicated for public use shall be near the public access point.

21.50.360 Recreational Development and Use

A. Applicability. This section applies to public and commercial shoreline recreational facilities and uses, including but not limited to trails, viewing platforms, swimming areas, boating facilities, docks, and piers.

B. Standards.

1. Non water-oriented recreation uses are prohibited in Urban Conservation - High Quality Shorelines except limited public uses that have minimal or low impact on shoreline ecological functions, such as the Centennial Trail and appropriately-scaled day use areas.
2. Water-oriented recreational structures, limited to boat launches, ramps, public docks or piers, commercial docks or piers, and private docks serving more than four residences may be allowed waterward of the shoreline buffer and setback.
3. Water-oriented recreational structures, limited to access routes, boat and equipment storage, viewing platforms, amenities such as benches, picnic tables and similar facilities for water enjoyment uses, including those related to the Centennial Trail shall be allowed within the shoreline buffer and setback area provided:
   a. Structures are located outside of an Urban Conservancy - High Quality area;
   b. Structures are not located in, on, or over water; and
   c. Structure height limit is less than 15 feet.
4. All recreational development shall provide:
   a. Non-motorized and pedestrian access to the shoreline pursuant to SVMC 21.50.250 Public Access;
   b. Landscaping, fencing, or signage designed to prevent trespassing onto adjacent properties;
   c. Signs indicating public right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
   d. Buffering of such development and uses from incompatible adjacent land uses pursuant to SVMC 22.70.030 Screening and Buffering, and Table 22.70-2 - Buffers Required by Type, as applicable.
5. Recreational development and uses shall be pursuant to SVMC 21.50.310 Boating Facilities, SVMC 21.50.320 Commercial Use, and SVMC 21.50.430 Piers and Docks, as applicable.

21.50.370 Residential Development and Use

A. Applicability.

1. This section applies to single-family and multi-family structures, lots, and parcels.
2. Residential uses also include accessory dwelling units (ADUs), accessory uses, and structures normally associated with residential uses including, but not limited to, garages, sheds, decks, driveways, fences, swimming pools, hot tubs, saunas, and tennis courts.
3. Clearing, grading, and utilities work associated with residential use are subject to the regulations established for those activities.

B. Standards.

1. A Shoreline Substantial Development Permit is not required for construction by an owner, lessee, or contract purchaser of a single-family residence, provided, any such construction of a single-family residence and all accessory structures meet the requirements of the SMP.
2. Residential development, including single-family structures, shall be required to control erosion during construction. Removal of vegetation shall be minimized and any areas disturbed shall be restored to prevent erosion and other impacts to shoreline ecological functions pursuant to SVMC 21.50.260.
3. New residential development, including accessory uses and structures, shall be sited in a manner to avoid the need for structural improvements that protect such structures and uses from steep slopes and shorelines vulnerable to erosion, including bluff walls and other stabilization structures.
4. New over-water residences and floating homes are prohibited.
5. New single-family residential accessory structures, excluding accessory dwelling units, may be located waterward of the shoreline setback provided that all of the following criteria are met:
    a. The combined building footprint of all accessory structures does not exceed 10 percent of the lot area;
    b. Structures are located outside of critical areas, their associated buffers, and the shoreline buffer; and
    c. Structures are set no closer than five feet to any side or rear property line.
6. New attached or detached accessory dwelling units shall:
    a. Be located landward of the shoreline buffer and outside of all critical areas and their buffers; and
    b. Be pursuant to SVMC 19.40.100 Accessory Dwelling Unit.
7. New residential developments of four or more lots shall comply with the following requirements:
    a. The shoreline buffer shall be shown on the plat and permanently marked on the ground with methods approved by the City Manager;
    b. A site plan shall be provided in conjunction with the building permit application showing the project elements described in SVMC 21.50.370(B)(3); and
    c. Provide a project narrative describing how the project elements are being met.
8. Exterior lighting associated with single-family residences, such as pathway lighting and lighting directed at landscaping features, is permitted within the setback area so long as it is directed away from the shoreline.
9. Recorded plats shall include language that states that pursuant to SVMC 21.50.230, use and development within the defined shoreline buffer area is prohibited. Title notices shall be recorded with each newly created parcel with the restrictive language.
10. New fences shall meet the requirements of SVMC 22.70 Fencing, Screening and Landscaping.
11. Fences are prohibited in the following areas:
    a. Shoreline buffers;
    b. Critical areas; and
    c. Waterward of the OHWM.

21.50.380 Signs and Outdoor Lighting

A. Applicability. This section applies to any commercial, industrial, or advertising sign directing attention to a business, professional service, community site, facility, or entertainment conducted or sold, and all outdoor lighting, except those associated with residential use and public street lighting.

B. Standards.
   1. All signs shall comply with SVMC 22.110 Sign Regulations; variances from these regulations may be granted pursuant to SVMC 21.50.140 Shoreline Variances.
   2. Signage, including kiosks and directional signage to commercial uses or recreation areas, related to, or along, the Centennial Trail, is allowed without a Shoreline Substantial Development Permit provided:
      a. Signage is consistent with the SMP, the City's Parks and Recreation Master Plan, and any applicable master plan of Washington State Parks; and
      b. Signage proposed within a buffer area shall not:
         i. Exceed 15 square feet in area;
         ii. Exceed six feet in height;
         iii. Be illuminated unless warranted by safety factors; and
         iv. A building permit is obtained, if required.
   3. Outdoor lighting shall comply with SVMC 22.60 Outdoor Lighting Standards.
   4. New permanent outdoor lighting is prohibited within the shoreline buffer.
   5. Pedestrian-oriented lighting along walkways and paths shall be allowed within the shoreline setback area if:
      a. The purpose of the light is safety;
      b. Lighting structure height is not greater than 12 feet; and
      c. Lighting fixtures are downward directed and fully shielded.
   6. All outdoor lighting shall be oriented away from the shoreline and adjacent uses using directional lighting or shielding.

21.50.390 Transportation Facilities

A. Applicability. This section applies to structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, heliports, rail, and other related facilities. Trails are addressed in SVMC 21.50.250 Public Access.

B. Standards.
   1. New road and bridge construction and expansion of existing roads and bridges shall only be located within the shoreline jurisdiction upon approval by the City Manager when deemed necessary for the good of the community, or when deemed related to, and necessary to support permitted shoreline activities.
   2. When allowed, transportation facilities shall be:
      a. Consistent with an approved private project or applicable City plans, including the City's Transportation Improvement Plan, Public Access Plan and Restoration Plan;
      b. Located on the landward side of existing structures or uses; and
      c. Be designed to minimize clearing, grading, and alteration of natural features. Roadway and driveway alignment should follow natural contours and minimize width.
   3. To the extent consistent with federal jurisdiction, new rail lines and corridors or expansion of existing rail lines and corridors shall be allowed only for the purpose

of connecting to existing rail lines or rights-of-way. New rail lines, including bridges, shall be constructed within existing rail corridors or rights-of-way.

4. To the extent consistent with federal jurisdiction, new rail lines shall be constructed so that they do not compromise the public's ability to access the shoreline safely.

21.50.400 Public Facilities and Utilities

A. Applicability. This section applies to all public facilities and utilities. This section does not apply to on-site utility features serving a primary use, such as water, sewer, or gas lines to a development or residence. These utility features are considered "service utilities" and shall be considered part of the primary use.

B. Regulations.

1. New public facilities and utilities may only be allowed pursuant to Shoreline Conditional Use permit and if they meet the following conditions:
   a. Address conflicts with present and planned land and shoreline uses through site design or configuration, buffers, aesthetics, or other methods; and
   b. Identify the need to site within shoreline jurisdiction and why it is not possible to locate outside of the shoreline jurisdiction.
2. New wastewater and stormwater outfalls shall not be allowed.
3. Routine maintenance, replacement, and minor upgrades of existing utilities shall be allowed; provided that if the activity involves ground disturbance or is located in the Urban Conservancy - High Quality Environment, then such maintenance, replacement, and minor upgrades shall only be allowed by Letter of Exemption. If existing high-quality vegetated areas, as noted in the Shoreline Inventory and Analysis, are disturbed by maintenance activities in Urban Conservancy - High Quality designated shorelines, mitigation pursuant to SVMC 21.50.210 No Net Loss and Mitigation Sequencing, shall be required.
4. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, should be located outside of the shoreline jurisdiction.
5. New utility corridors shall be prohibited within the Urban Conservation – High Quality Environment.
6. New over-water utility crossings are allowed within existing utility corridors.
7. New or expanded service utilities shall:
   a. Be located underground, unless placement underground results in more damage to the shoreline area;
   b. Utilize low impact, low profile design, and construction methods; and
   c. Restore any areas disturbed to pre-project configurations, replant with native species, and maintain until the newly planted area is established.
8. Stormwater pipe systems shall not be allowed within the shoreline buffer.

21.50.410 General Regulations for Specific Shoreline Modifications

A. Applicability. SVMC 21.50.410 through 21.50.450 apply to all shoreline modifications. Shoreline modification activities are structures, including in-stream structures, or actions that modify the physical configuration or qualities of the shoreline area.

B. General shoreline modification standards.

1. All shoreline modification applications shall also comply with:
   a. SVMC 21.30 Floodplain Regulations;
   b. SVMC 24.50 Land Disturbing Activities; and

c. Integrated Streambank Protection Guidelines (WDFW, Ecology and Transportation, 2003 as adopted or amended).

2. All shoreline modification activities shall ensure that the no net loss of ecological function standard is met.
3. Structural shoreline modifications within the regulated floodplain, geologically hazardous areas, and in-stream shall only be allowed where it can be demonstrated that nonstructural measures are not feasible or the proposed activities are necessary to:
   a. Support or protect a legally existing shoreline use or primary structure that is in danger of loss or substantial damage;
   b. Reconfigure the shoreline or channel bed for an allowed water-dependent use; or
   c. Provide for shoreline mitigation or enhancement purposes.
4. All shoreline modifications within the regulated floodplain and in-stream, with the exception of docks proposed on the Spokane River that are located west of the City of Millwood, shall provide the following:
   a. Site suitability analysis that justifies the proposed structure;
   b. A Habitat Management Plan prepared by a Qualified Professional that describes:
      i. The anticipated effects of the project on fish and wildlife habitat and migration areas;
      ii. Provisions for protecting in-stream resources during construction and operation; and
      iii. Measures to compensate for impacts to resources that cannot be avoided.
   c. An engineering analysis which evaluates and addresses:
      i. The stability of the structure for the required design frequency;
      ii. Changes in base flood elevation, floodplain width, and flow velocity;
      iii. The potential for blocking or redirecting the flow which could lead to erosion of other shoreline properties or create an adverse impact to shoreline resources and uses;
      iv. Methods for maintaining the natural transport of sediment and bedload materials;
      v. Protection of water quality, public access, and recreation; and
      vi. Maintenance requirements.

21.50.420 Shoreline/Slope Stabilization

A. Applicability. This section applies to shoreline modification activities for shoreline and slope stabilization projects, including structural and nonstructural measures.

B. Standards.
   1. Nonstructural measures are the preferred method for slope and shoreline stabilization.
   2. Nonstructural measures may include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization.
   3. Structural stabilization measures may include hard surfaces such as concrete bulkheads or less rigid materials, such as vegetation, biotechnical vegetation measures, and riprap-type stabilization.

4. New structural shoreline modifications require a Shoreline Substantial Development Permit.
5. New structural stabilization measures may be allowed under the following circumstances:
    a. To protect existing primary structures, public facilities and utilities, and the Centennial Trail. Prior to approval, a geotechnical investigation shall:
        i. Demonstrate that the structure is in danger from shoreline erosion by currents or waves; and
        ii. Evaluate on-site drainage and address drainage problems away from the shoreline.
    b. To protect new non water-dependent uses from erosion, when all of the following apply:
        i. The erosion is not being caused by upland conditions;
        ii. Nonstructural measures are neither feasible nor sufficient;
        iii. An engineering or scientific analysis demonstrates that damage is caused by natural processes; and
        iv. The stabilization structure shall incorporate native vegetation and comply with the mitigation sequencing in SVMC 21.50.210 No Net Loss and Mitigation Sequencing.
    c. To protect water-dependent development from erosion when all of the following apply:
        i. The erosion is not being caused by upland conditions;
        ii. Nonstructural measures are neither feasible nor sufficient; and
        iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
    d. To protect restoration and remediation projects when all of the following apply:
        i. The project is conducted pursuant to chapter 70.105D RCW Model Toxics Control Act; and
        ii. Nonstructural measures are neither feasible nor sufficient.
6. Unless otherwise exempt from shoreline permit requirements, replacement of an existing shoreline stabilization structure may be approved with a Shoreline Substantial Development Permit, provided the structure remains in the same location and the outer dimension changes by 10 percent or less. However, a Shoreline Conditional Use Permit shall be required if existing shoreline stabilization measures are relocated or the outer dimension changes by more than 10 percent.
7. All new or replaced structural shoreline stabilization measures shall provide:
    a. Design plans showing the limits of construction, access to the construction area, details, and cross sections of the proposed stabilization measure, erosion and sediment controls, and re-vegetation of the project area; and
    b. An engineered report that addresses the purpose of the repair, engineering assumption, and engineering calculations to size the stabilization measure.
8. A replacement structure shall not encroach waterward of the OHWM, unless all of the following apply:
    a. For residences occupied or constructed prior to January 1, 1992;
    b. There are overriding safety or environmental concerns;
    c. The replacement structure shall abut the existing shoreline stabilization structure; and

d. The Department of Natural Resources has approved, if applicable, the proposed project if it is on state-owned aquatic lands.

21.50.430 Piers and Docks

A. Applicability. This section applies to the construction or expansion of piers and docks constructed waterward of the OHWM.

B. Standards.

1. Piers and docks designed for pleasure craft only, and for the private noncommercial use of the owner, lessee, or contract purchaser of single and multi-family residences, shall require a Letter of Exemption. Any other dock or pier permitted under the SMP requires a Shoreline Substantial Development Permit.
2. Piers and docks serving more than four residences and public or commercial piers and docks shall comply with SVMC 21.50.310 Boating Facilities. Public or commercial piers and docks shall comply with SVMC 21.50.360 Recreational Development and Uses.
3. New piers and docks shall only be allowed for water-dependent uses or public access. A dock associated with a single-family residence and designed and intended as a facility for access to watercraft is a water-dependent use.
4. New piers and docks shall be the minimum size necessary based upon a needs analysis provided by the Applicant. However, the size shall not exceed 55 feet in length measured perpendicularly from the OHWM. Total deck area shall not exceed 320 square feet.
5. The City may require modifications to the configuration of piers and docks to protect navigation, public use, or ecological functions.
6. Wood treated with toxic compounds shall not be used for decking or for in-water components.
7. Existing legally established docks, piers, or viewing platforms may be repaired or replaced in accordance with the regulations of the SMP, provided the size of the existing structure is not increased.
8. Piers and docks proposed on the Spokane River and located east of the City of Millwood shall comply with SVMC 21.50.410(B)(4) and the following additional criteria:
   a. The site suitability analysis shall demonstrate that:
      i. The river conditions in the proposed location of the dock, including depth and flow conditions, will accommodate the proposed dock and its use; and
      ii. Any design to address river conditions will not interfere with or adversely affect navigability.
   b. The Habitat Management Plan for any such docks shall demonstrate that the proposed dock will not result in a net loss of ecological functions, and shall include an analysis of the cumulative impact of additional requests for like actions in the area.
9. A new pier or dock accessory to residential development within the shoreline located east of the City of Millwood, and west of the Centennial Trail Pedestrian Bridge, shall provide joint use or community dock facilities, when feasible, rather than allowing individual docks for each residence. Application materials shall include documentation of the applicant's efforts to explore feasibility of and interest in a joint use dock with owners of any residential lots immediately adjacent to the applicant's sites. Such documentation may include copies of

certified letters sent to owners of the immediately adjacent properties listed on title. Any proposal for a joint use dock shall include in the application materials a legally enforceable joint use agreement or other legal instrument, notice of which must be recorded against title of the properties sharing the dock prior to dock construction. The joint use agreement shall, at a minimum, address the following:

a. Apportionment of construction and maintenance expenses;
b. Easements and liability agreements; and
c. Use restrictions.

21.50.440 Dredging and Fill

A. Applicability. This section applies to shoreline modification activities for projects or uses proposing dredging, dredge material disposal, or fill waterward of the OHWM.

B. Regulations.

1. Dredging and dredge material disposal is prohibited unless associated with a comprehensive flood management solution, an environmental cleanup plan, a habitat restoration, fish enhancement project, or when considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Washington State Department of Natural Resources. These projects require a Shoreline Conditional Use Permit.
2. Fill shall be allowed only when necessary to support the following uses (a Shoreline Conditional Use Permit is required unless stated otherwise):
   a. Water-dependent uses;
   b. Public access;
   c. Cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan; these proposals may be exempt from a shoreline permit of any type by the Model Toxics Control Act;
   d. Expansion or alteration of transportation facilities. These proposals shall also demonstrate that alternatives to fill are not feasible and require a Shoreline Substantial Development Permit;
   e. A mitigation action; and
   f. An environmental restoration or enhancement project.

21.50.450 Shoreline Habitat and Natural Systems Enhancement Projects

A. Applicability. This section applies to all shoreline habitat and natural system enhancement projects.

B. Standards.

1. Shoreline habitat and natural systems enhancement projects are encouraged. These projects shall:
   a. Obtain a Shoreline Substantial Development Permit or a Letter of Exemption;
   b. Demonstrate that the main project purpose is enhancing or restoring the shoreline natural character and ecological functions by establishing the restoration needs and priorities; and
   c. Implement the restoration plan developed pursuant to WAC 173-26-201(2)(f) and with applicable federal and state permit provisions.
2. Relief procedures for shoreline restoration projects.

a. The City may grant relief from SMP development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

Article III. Shoreline Critical Areas Regulations

21.50.460 General - Shoreline Critical Areas Regulations - Applicability

A. SVMC 21.50.460 through 21.50.560 apply to critical areas and their buffers that are completely within the shoreline jurisdiction as well as critical areas and their buffers located within, but extending beyond the mapped shoreline jurisdiction boundary. Regulated critical areas include: wetlands, Critical Aquifer Recharge Areas (CARAs), Fish and Wildlife Habitat Conservation Areas (FWHCAs), geologically hazardous areas, and frequently flooded areas, pursuant to WAC 173-26-221(2) and (3), and WAC 365-196-485.

B. This section applies to all uses, activities, and structures within the shoreline jurisdiction of the City, whether or not a shoreline permit or other authorization is required. No person, company, agency, or other entity shall alter a critical area or its associated buffer within the shoreline jurisdiction except as consistent with the purposes and requirements of the SMP.

21.50.470 Maps and Inventories

A. The approximate location and extent of known critical areas are depicted on the Critical Areas and Priority Habitats Map updated and maintained by the Community Development Department. The Critical Areas and Priority Habitats Map is a reference tool, not an official designation or delineation. The exact location of a critical area boundary shall be determined through field investigation by a Qualified Professional.

B. In addition to the Critical Areas and Priority Habitats Map, City staff may review additional reference materials to determine whether a proposed development has the potential to affect a critical area within the shoreline jurisdiction. Reference materials may include, but are not limited to the following as adopted or amended:
   1. Natural Resources Conservation Service (NRCS) Soil Survey for Spokane County, Washington, 2012;
   2. USGS 7.5 Minute Series Digital Elevation Model;
   3. FEMA Flood Insurance Rate Maps for Spokane County, Washington and Incorporated Areas, July 6, 2010;
   4. USFWS National Wetlands Inventory;
   5. Aerial photos;
   6. WDFW Priority Habitats and Species and Wildlife Heritage Maps and Data; and
   7. City critical area designation maps.

21.50.480 Exemptions from Critical Area Review and Reporting Requirements

A. Activities exempt from critical area review and reporting requirements shall ensure no net loss of shoreline ecological functions pursuant to SVMC 21.50.210. Exempt activities shall be conducted consistent with performance standards identified in SVMC 21.50.180 through 21.50.450, including mitigation sequencing.

B. Any incidental damage to or alteration of a critical area or their buffers resulting from exempt activities shall be restored, rehabilitated, or replaced at the expense of the responsible party within one growing season.

C. The following activities are exempt from critical area review and reporting requirements:
   1. Conservation or enhancement of native vegetation.
   2. Outdoor recreational activities which do not involve disturbance of the resource or site area, including fishing, hunting, bird watching, hiking, horseback riding, bicycling, and natural trail use.
   3. Education, scientific research, and surveying.
   4. Normal and routine maintenance and repair of:
      a. Legally-constructed existing irrigation and drainage ditches, utility lines and right-of-way, and appurtenances;
      b. Facilities within an existing right-of-way and existing serviceable structures or improved areas, not including expansion, change in character or scope, or construction of a maintenance road. The exemption includes the necessary vegetation management that keeps the existing right-of-way clear from hazard trees; and
      c. State or City parks, including noxious weed control and removal of hazard trees where the potential for harm to humans exists.
   5. Emergency construction necessary to protect property from damage by the elements.
   6. Routine maintenance, repair, and minor modifications (such as construction of a balcony or second story) of existing structures where the modification does not extend the structure further into or adversely impact the functions of the critical area.
   7. In Category III or IV wetlands only, stormwater dispersion outfalls and bioinfiltration swales located within the outer 25 percent of the buffer provided that no other location is feasible.

21.50.490 Critical Area Review

A. All clearing, uses, modifications, or development activities within a shoreline critical area or its buffer shall be subject to review under SVMC 21.50 unless specifically exempted under SVMC 21.50.480.

B. Applicant shall identify in the application materials the presence of any known or suspected critical areas on or within 200 feet of the property line.

C. If the proposed project is within or adjacent to a critical area, or is likely to create a net loss of shoreline ecological functions necessary to sustain a critical area, the City shall:
   1. Require and review a critical area report for each applicable critical area; and
   2. Determine if the proposed project adequately addresses and mitigates impacts to the critical area and is consistent with the requirements of the SMP.

21.50.500 Critical Area Report Requirements for all Critical Areas

A. When required by SVMC 21.50.490(C), the Applicant shall submit a critical area report subject to the requirements of this section and any additional reporting requirements for each critical area, as applicable.

B. Critical area reports for two or more types of critical areas shall meet the report requirements for each relevant type of critical area.

C. All critical area assessments, investigations, and reports shall be completed by a Qualified Professional.

D. At a minimum, all critical area reports shall contain the following:

1. The name and contact information of the Applicant, a description of the proposal, and identification of the permit(s) requested;
2. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
3. A statement from the Qualified Professional certifying that the report meets the critical area requirements;
4. A description of the nature, density, and intensity of the proposed use or activity in sufficient detail to allow analysis of such proposal upon identified critical area;
5. List of all references used and all assumptions made and relied upon;
6. A scaled site plan showing:
   a. Critical areas and their buffers;
   b. Ordinary high water mark;
   c. Proposed and existing structures and related infrastructure;
   d. Clearing and grading limits;
   e. Impervious surfaces;
   f. Location of temporary and/or permanent construction signage and fencing to protect critical areas and their buffers;
   g. Topographic contours at two foot intervals;
   h. Fill and material storage locations;
   i. Proposed and existing drainage facilities and stormwater flow arrows; and
   j. Title, date, scale, north arrow, and legend;
7. Identification and characterization of all critical areas, water bodies, and critical areas associated with buffers located on site, adjacent to, and within 200 feet of proposed project areas. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer shall apply;
8. A mitigation plan which contains a description of the application of mitigation sequencing and offsetting of impacts pursuant to SVMC 21.50.210 No Net Loss and Mitigation Sequencing;
9. Erosion and sediment control plan and drainage plan, as applicable for conformance with SVMC 24.50;
10. Cost estimate for required mitigation when a financial surety is required pursuant to SVMC 21.50.510;
11. A discussion of the performance standards applicable to the critical area and proposed activity; and
12. Monitoring plan pursuant to SVMC 21.50.510(D) when mitigation is required.

E. The City Manager may modify the required contents or the scope of the required critical area report to adequately evaluate the potential impacts and required mitigation. This may include requiring more or less information and addressing only that part of a site affected by a development proposal.

21.50.510 Mitigation

A. Applicants shall follow the mitigation sequencing put forth in SVMC 21.50.210 No Net Loss Mitigation and Sequencing.

B. All impacts to critical areas and their buffers likely to result in a net loss of shoreline ecological functions necessary to sustain the critical area shall be mitigated consistent with appropriate state and federal guidelines.

C. Unless specifically addressed in specific critical area sections, compensatory mitigation may be provided by any of the following means, in order of preference:

1. Except as provided in SVMC 21.50.510(C)(2)(a), adverse critical area impacts shall be mitigated on or contiguous to the development site through resource expansion, enhancement, protection, or restoration.
2. Off-site mitigation.
   a. Off-site mitigation may be allowed if an Applicant demonstrates that mitigation on or contiguous to the development proposal site cannot be achieved and that off-site mitigation will achieve equivalent or greater ecological functions.
   b. When off-site mitigation is authorized, priority shall be given to the following locations within the same drainage sub-basin as the project site:
      i. Mitigation banking sites and resource mitigation reserves.
      ii. Private mitigation sites that are established in compliance with the requirements of SVMC 21.50.510(C)(2) and approved by the City Manager.
      iii. Offsite mitigation consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, Olympia, WA, November 2010 as adopted or amended).
   c. The City Manager shall maintain a list of known sites available for use for off-site mitigation projects.
3. Title notices shall be recorded against the affected parcels for on-site mitigation, and easements shall be recorded for off-site mitigation, to avoid impacts from future development or alteration to the function of the mitigation. The mitigation site shall be permanently preserved.

D. Monitoring.

1. The Applicant shall monitor the performance of any required mitigation and submit performance monitoring reports, as specified in the applicable permit conditions.
2. When required, the monitoring plan shall:
   a. Demonstrate compliance with the provisions of the SMP and specific permits and approvals;
   b. Describe the objectives and methods for monitoring and quantifying;
   c. Provide results with an estimate of statistical precision;
   d. Identify the length of monitoring and reporting requirements;
   e. Recommend management actions based upon the monitoring results; and
   f. Address the length of the mitigation consistent with the following:
      i. Mitigation monitoring shall be required for a minimum of two years for temporary impact restoration and up to 10 years for compensatory mitigation; and
      ii. If the mitigation objectives are not obtained within the initial monitoring period, the Applicant shall remain responsible for restoration of the natural values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

E. Sureties.

1. Performance and maintenance sureties shall be required from all private persons and entities required to provide mitigation and a maintenance plan.
2. The performance surety shall be in substantially the same form as provided for in the City's Street Standards as adopted or amended.
3. A performance surety shall be submitted prior to issuance of a Shoreline Substantial Development, Conditional Use Permit, or Grading Permit. The surety shall include costs to cover for construction and vegetation, annual maintenance for a five-year period, and a 25 percent contingency fee.
4. The performance surety shall be released when the following conditions have been met:
   a. The installation of the required mitigation is approved by the City; and
   b. The Applicant has submitted a warranty surety pursuant to SVMC 21.50.510(E)(5).
5. All projects with required mitigation shall submit a warranty surety to ensure the success of the mitigation project before certificate of occupancy, final plat approval, or as required by the City. The warranty surety shall be for 40 percent of the total mitigation construction and planting costs and annual maintenance/ monitoring for five years, including but not limited to: costs for the maintenance and replacement of dead or dying plant materials; failures due to site preparation, plant materials, construction materials; installation oversight, monitoring, reporting, and contingency actions expected through the end of the required monitoring period.
6. The warranty surety shall remain in effect for five years from the release of the performance surety or a timeframe as otherwise determined by the City Manager. The Applicant shall have a Qualified Professional inspect the mitigation site within 30 days of the expiration of the warranty. Any deficiencies noted shall be repaired prior to the release of the surety. If the inspection is not conducted and/or the deficiencies are not repaired, the warranty surety shall be renewed by the Applicant until all deficiencies are corrected. The City shall conduct an inspection prior to releasing the warranty surety.
7. If any deficiencies identified while the warranty surety is in effect are not corrected in the time frame specified by the City Manager, the City may choose to conduct the necessary repairs. The City shall then either invoice the Applicant or collect from the surety for all costs for the related work, plus a $500 administrative fee.

F. The City Manager may approve alternative mitigation provided such mitigation is based on the most current, accurate, and complete scientific or technical information available and provides an equivalent or better level of protection of shoreline ecological functions than would be provided by the strict application of the SVMC 21.50. The City Manager shall consider the following for approval of an alternative mitigation proposal:

1. The Applicant proposes creating or enhancing a larger system of natural areas and open space in lieu of preserving many individual habitat areas.
2. There is clear potential for success of the proposed mitigation at the proposed site.
3. The approved plan contains clear and measurable standards for achieving compliance with the specific provisions of the plan.

21.50.520 Wetlands - Shoreline Critical Area Regulations

A. Applicability. This section applies to all clearing, uses, modifications, or development activities within or adjacent to wetlands, unless specifically exempted by SVMC 21.50.480.

B. Delineation and classification.
   1. Delineation. Wetland identification and delineation of wetland boundaries shall be determined by a qualified professional through a field investigation based on the protocols of the 1987 U.S. Army Corps of Engineers Delineation Manual and applicable regional supplement, as adopted by Washington State Department of Ecology (Ecology) and as hereafter amended. Wetland delineations are valid for five years, after which the City shall determine whether a boundary verification study or additional assessment is necessary.
   2. Classification.
      a. Wetlands shall be rated pursuant to the Ecology wetland rating system as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication No. 14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining wetland categorical ranking and scores based on functions and values.
      b. Categories. Wetland categories are defined as follows:
         i. Category I: perform functions at very high levels as evidenced by scoring between 22 and 27 points on Ecology's wetland rating system; includes alkali wetlands, bogs, and forests with stands of aspen.
         ii. Category II: provide high levels of some functions, with a rating score between 19 and 21 points; difficult, though not impossible, to replace; includes forested wetlands in the floodplains of rivers, mature and old-growth forested wetlands over one-quarter acre in size with fast-growing trees, and vernal pools.
         iii. Category III: provide a moderate level of functions, with a rating score between 16 and 18 points; can be adequately replaced with a well-planned mitigation project.
         iv. Category IV: provide lowest level of functions, with a rating score less than 16 points; often heavily disturbed but may provide some important functions including groundwater recharge and the removal of pollutants from surface water.

C. Wetland buffer areas.
   1. Wetland buffer areas shall be required adjacent to all wetlands except isolated Category IV wetlands less than 1,000 square feet that:
      a. Are not associated with riparian areas or buffers;
      b. Are not part of a wetland mosaic (a patchwork of nearby, small wetlands);
      c. Do not contain habitat identified as essential for local populations of priority species identified by WDFW or Natural Heritage plant species identified by the DNR;
      d. Are not a vernal pool;
      e. Are not an alkali wetland; and
      f. Do not contain aspen stands.

2. Wetland buffers shall apply to any wetland created, restored, or enhanced as compensation for approved wetland alterations in the same manner as natural wetlands.
3. Except as otherwise specified or allowed in SVMC 21.50.520(C), wetland buffers shall be retained in their natural condition. Where buffer disturbances have occurred before or during construction, revegetation with native vegetation and restoration of the hydrologic condition shall be required.
4. Buffer widths.
   a. All buffers widths shall be measured perpendicularly from the wetland boundary.
   b. The width of the wetland buffer area shall be determined pursuant to Table 21.50-5 based upon the associated wetland category and impact intensity category of the proposed use. Widths shall be increased pursuant to SVMC 21.50.520(C)(4)(c) and may be reduced pursuant to SVMC 21.50.520(C)(4)(d). Wetland categories shall be assigned in accordance with SVMC 21.050.520(B)(2) and consistent with Ecology's Wetlands in Washington State, Volume 2; Protecting and Managing Wetlands, Guidance on Buffers and Ratios (Appendix 8-D), as may be amended. Land use intensity shall be determined as follows (uses not specifically listed shall be considered based upon the most similar use listed):

Table 21.50-4: Wetland Impact Intensity Categories

Impact Intensity Category (Impact from Proposed Change in Land Use)	**Types of Land Use**
High Impact	Commercial, industrial, and institutional Residential (more than one unit/acre) High-intensity recreation (golf courses, ball fields, etc.)
Moderate Impact	Residential (one unit/acre or less) Moderate-intensity active open space (parks with biking, jogging, etc.) Paved trails Utility corridor with access/maintenance road
Low Impact	Passive open space (hiking, bird-watching, etc.) Unpaved trails Utility corridor without road or vegetation management

Table 21.50-5: Standard Wetland Buffer Widths

Wetland Category	Minimum Buffer Width (in feet)		
	Low Impact	Moderate Impact	High Impact
I	125	190	250
II	100	150	200
III	75	110	150
IV	25	40	50

c. Increase in Standard Wetland Buffer Width.
   i. If the land adjacent to a wetland has an average slope of 30 percent or more, the minimum buffer width shall either:
      (1) Be extended one and one-half times; or
      (2) Extend to the upper break in slope (where the slope gradient is less than 30 percent for 20 feet or more perpendicular to the wetland, whichever is less).

d. Reduction of Standard Wetland Buffer Width.
   i. The standard wetland buffer width for wetlands may be reduced to the next, lower land use intensity buffer width (e.g., from high to moderate), or reduced by no more than 25 percent if:
      (1) A relatively undisturbed vegetative corridor of at least 100 feet in width is protected between the wetland and any other priority habitats and the corridor is preserved by means of easement or covenant; or
      (2) All measures identified in Table 21.50-6 are taken to minimize the impact of any proposed land use.

Table 21.50-6: Wetland Impact Minimization Measures

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland.
Noise	• Locate activity that generates noise away from wetland. • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot-wide, heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Chemical Use	• Establish covenants limiting use of pesticides within 150 feet of wetland. • Apply integrated pest management.

Disturbance	Required Measures to Minimize Impacts
Stormwater runoff	• Route all untreated runoff away from wetland while ensuring wetland is not dewatered. • Retrofit older stormwater facilities to meet current standards. • Prevent channelized flow that directly enters the buffer. • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and human disturbance	• Use privacy fencing or plant dense, thorny vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the City.
Dust	• Use best management practices to control dust.
Disruption of corridors or connections	• Maintain connections to off-site areas that are undisturbed. • Restore corridors or connections to off-site habitats by replanting.
Vegetation alteration	• Protect and maintain native plant communities in buffers.

e. Standard Buffer Width Averaging.

i. Standard wetland buffer width may be averaged (reduced in width near a parcel or development but widened elsewhere along the parcel or development to retain the overall area of the standard wetland buffer) if all of the following conditions are met:

(1) 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;

(2) The total area of the buffer after averaging is equal to the area required without averaging; and

(3) The buffer at its narrowest point is never less than either 75 percent of the standard buffer width.

D. Signs and fencing.

1. Temporary.

a. The outer perimeter of wetland buffers and the clearing limits shall fenced to ensure that no unauthorized intrusion will occur during construction. Temporary fencing shall be designed and installed to effectively prevent construction and related impacts.

b. Temporary signs and fencing shall be placed prior to beginning permitted activities and maintained throughout construction.

2. Permanent.

a. The City Manager may require installation of permanent signs and/or fencing along the boundary of a wetland or buffer where public or high traffic pedestrian uses may occur to protect critical areas.

b. Where required, permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another nontreated material of equal durability. Signs shall be posted at an interval not less than one per lot or every 50 feet, whichever is less, and shall be maintained in perpetuity by the property owner. Any modification of the location or materials required for permanent signs shall be approved by the City Manager. The obligation to maintain permanent signs shall be recorded against the property in a form acceptable to the City.

c. The signs shall be worded with language approved by the City Manager.

d. Permanent fence shall be installed and maintained around the wetland buffer when domestic grazing animals are present or may be introduced on site.

e. Fencing shall be constructed in a manner that minimizes impacts to the wetland and associated habitat and designed to not interfere with species migration, including fish runs. Fencing materials shall not be made or treated with toxic chemicals.

E. Wetland Mitigation.

1. Mitigation Ratios.

a. Impacts resulting from alteration to wetlands shall be mitigated using the ratios specified below:

Table 21.50-7: Wetland Mitigation Area Ratios[1]

Category of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement
Category I	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

[1] Refer to Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance, (Ecology Publication No. 06-06-011a, March 2006), for further information on wetland creation, reestablishment, rehabilitation, and enhancement.

b. Impacts to buffers shall be mitigated at a 1:1 ratio. Only vegetated buffer areas may be included in mitigation calculations. Lawns, walkways, driveways, and other mowed or developed areas shall be excluded from buffer area calculations.

c. Credit/Debit Method. As an alternative to the mitigation ratios provided in SVMC 21.50.520(E), the City Manager may allow mitigation based on the "credit/debit" method developed by the Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report (Ecology Publication No. 11-06-015, August 2012, as adopted or as amended).

2. Off-Site Mitigation.
   a. Wetland mitigation may be permitted off site if the primary drainage basin will not be substantially damaged by the loss of affected wetland hydrologic, water quality, or habitat functions as determined by a qualified professional; and
      i. On-site mitigation is not scientifically feasible due to problems with hydrology, soils, or other factors such as other potentially adverse impacts from surrounding land uses;
      ii. Existing functions off site are significantly greater than lost wetland functional values; or
      iii. Goals for flood storage, flood conveyance, habitat, or other wetland functions have been established and off-site mitigation is strongly justified by meeting such goals.
   b. Wetland Mitigation Banks and Fee-in-Lieu Programs.
      i. Credits from a wetland mitigation bank or fee-in-lieu program may be approved as off-site mitigation for unavoidable impacts to wetlands when:
         (1) The bank or fee-in-lieu program is certified under state rules;
         (2) The City Manager determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
         (3) The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.
      ii. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.
      iii. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions. The use of bank credits out of the established service area of the nearest available bank must be approved by the City, WDFW, and Ecology.
      iv. When applying for a wetland mitigation bank or fee-in-lieu program, the applicant shall prepare a wetland mitigation bank credit use plan that documents consistency with these criteria and shows how the identified wetland type and associated functions will be compensated for by purchase of the credits.
3. Design.
   a. Design of wetland mitigation projects shall be appropriate for its landscape position. Compensatory mitigation shall result in the creation, restoration, or enhancement of a wetland that matches the geomorphic setting of the site.
   b. The design of a wetland that has a different Cowardin or hydrogeomorphic classification than the impacted wetland may be justified if supported by a demonstrated need for, or scarcity of, the wetland type being designed.
4. Timing.
   a. To minimize temporal loss of wetland ecological functions, compensatory mitigation shall be completed prior to activities that disturb wetlands where feasible.

b. Where mitigation cannot be completed prior to wetland impacts, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development.

c. Understanding that construction of mitigation projects should be timed to reduce impacts to existing fisheries, wildlife, and flora, the City Manager may authorize a delay of mitigation when the applicant provides a compelling written rationale for the delay with recommendations from a qualified wetland professional. In such cases, the delay shall not:

i. Create or perpetuate hazardous conditions;

ii. Create environmental damage or degradation; or

iii. Be injurious to the health, safety, or general welfare of the public.

F. Additional critical area report requirements for wetlands. In addition to the critical area report requirements in SVMC 21.50.500, wetland reports shall include the following:

1. Documentation of any fieldwork performed on the site, including but not limited to field data sheets for delineations, function assessments, ratings, or baseline hydrologic data;
2. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references;
3. For each wetland identified on site, adjacent to and within 200 feet of the project site, provide:
   a. Required buffers;
   b. Wetland rating, hydrogeomorphic classification, Cowardin classification of vegetation communities, on-site wetland acreage, and ecological function of the wetland and buffer based on a professional survey from the field delineation. All assessments shall be based on entire wetland complexes, not only the portion present on the proposed project site;
   c. Estimates of acreage and boundary for the entire wetland area where portions of the wetland extend off site;
   d. Description of habitat elements;
   e. Soil conditions based on site assessment and soil survey information; and
   f. To the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris);
4. A description of the proposed actions and survey and an analysis of site development alternatives, including a no-development alternative;
5. An assessment of the probable impacts to the wetlands and buffers resulting from the proposed development, including:
   a. An estimation of acreages of impacts to wetlands and buffers based on the field delineation;
   b. Impacts associated with anticipated hydroperiod alterations from the project; and
   c. Impacted wetland functions;
6. A description of how mitigation sequencing was applied pursuant to SVMC 21.50.210, No Net Loss and Mitigation Sequencing;
7. A discussion of mitigation measures, proposed to preserve existing wetlands and restore any wetlands that were degraded by the current proposed land-use activity;
8. Methods to protect and enhance on-site habitat and wetland functions;
9. A site plan, drawn to scale, with the following information:

a. Delineated wetland(s) and required buffer(s) for on-site wetlands as well as off-site critical areas that extend onto the project site;
b. Areas of proposed impacts to wetlands and/or buffers (include square footage estimates); and
c. Proposed stormwater management facilities and outlets for the development, including estimated areas of intrusion into the buffers of any critical areas; and

10. A mitigation plan, if required.
    a. The plan shall address mitigation site selection criteria and goals and objectives in relation to the functions and values of the impacted critical area. Details in the mitigation plan shall include, but not be limited to:
        i. The proposed construction method, sequence, timing, and duration;
        ii. Grading and excavation details;
        iii. Erosion and sediment control features;
        iv. Dates for beginning and completion of mitigation activities;
        v. A planting plan, if applicable, specifying plant species, quantities, locations, size, spacing, and density; and measures to protect and maintain plants until established; and
        vi. Detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

b. The mitigation plan shall include a monitoring plan to ensure success of the mitigation plan. The plan shall conform to the monitoring requirements outlined in SVMC 21.50.510.

21.50.530 Critical Aquifer Recharge Areas - Shoreline Critical Area Regulations

A. Applicability. This section applies to the following developments and uses when proposed within designated CARAs:
    1. Underground and aboveground storage tanks;
    2. Vehicle repair and service uses, including automobile washers;
    3. Chemical treatment, storage, and disposal facilities;
    4. Hazardous waste generating uses;
    5. Injection wells, not including Class V or injection wells for stormwater management;
    6. Junk and salvage yards;
    7. On-site sewage systems;
    8. Solid waste handling and recycling facilities;
    9. Surface mines;
    10. Uses of hazardous substances, other than household chemicals for domestic applications;
    11. Projects having the potential to adversely impact groundwater; and
    12. Work within a wellhead protection area.

B. Designation and classification.
    1. CARAs are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential

for contamination of ground water resources or contribute significantly to the replenishment of ground water.

2. Aquifer recharge areas are rated as having a high, moderate, or low susceptibility based on a scientific analysis of soils, hydraulic conductivity, annual rainfall, the depth to aquifers, the importance of the vadose zone, and wellhead protection information. The entire shoreline jurisdiction, as well as the entire City, is identified as a high susceptibility CARA.

C. Performance standards.
The uses listed in Table 21.50-8 shall be conditioned as necessary to protect CARAs in accordance with the applicable state and federal regulations.

Table 21.50-8: Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	WAC 173-303-640
Automobile Washers	WAC 173-216; Best Management Practices Manual for Vehicle and Equipment Washwater Discharges(WQ-R-95-056)
Below Ground Storage Tanks	WAC 173-360
Chemical Treatment Storage and Disposal Facilities	WAC 173-303-300
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	WAC 173-303-300
Injection Wells	40 CFR Parts 144 and 146;WAC 173-218
Junk Yards and Salvage Yards	Vehicle and Metal Recycles – A Guide for Implementing the Industrial Stormwater General NPDES Permit Requirements (94-146)
On-Site Sewage Systems (Large Scale)	WAC 246-272B
On-Site Sewage Systems (< 14,500 gal/day)	WAC 246-272A, Local Health Ordinances
Solid Waste Handling and Recycling Facilities	WAC 173-304
Surface Mining	WAC 332-18

Additional performance standards for storage tanks that store hazardous substances or waste.
All storage tanks shall:

1. Comply with Title 24 SVMC Building Code and fire department requirements;
2. Use material in the construction or lining of the tank that is compatible with the substance to be stored;
3. Not allow the release of a hazardous substance to the ground, groundwater, or surface water;
4. Prevent releases due to corrosion or structural failure for the operational life of the tank; and
5. Be protected against corrosion and constructed of noncorrosive material or steel clad with a noncorrosive material.

D. All new underground storage tanks shall include a built-in secondary containment system that prevents the release or threatened release of any stored substances.

E. All new aboveground storage tanks shall include a secondary containment structure and meet either of the criteria below:
   1. If the secondary containment is built into the tank structure, the tank shall be placed over a sealed impervious pad surrounded with a dike. The impervious pad/dike shall be sized to contain the 10-year storm if exposed to the weather; or
   2. If the tank is single walled, the tank shall be placed over a sealed impervious pad surrounded with a dike. The impervious pad/dike shall have the capacity to contain 110 percent of the largest tank plus the 10-year storm if exposed to the weather.

F. Additional performance standards for vehicle repair and servicing. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions.

G. Additional standards for chemical storage.
   1. All chemicals used shall be stored in a manner that protects them from weather. Secondary containment shall be provided. On-site disposal of any critical material or hazardous waste shall be prohibited.
   2. All developments and uses shall provide a narrative and plan to show how development complies with the regulations and performance standards in SVMC 21.50.530(C-F), or prepare a hydrogeological assessment in accordance with SVMC 21.50.530(H).
   3. Proposed developments and uses that are unable to satisfy the performance standards in SVMC 21.50.530(C-F), shall submit a hydrogeological assessment report.

H. In addition to the critical area report requirements in SVMC 21.50.500, hydrogeological assessments shall include:
   1. Available geologic and hydrogeological characteristics of the site, including groundwater depth, flow direction, gradient, and permeability of the unsaturated zone;
   2. Discussion of the effects of the proposed project on groundwater quality and quantity;
   3. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, replacement of structures and equipment that could fail, and mitigation and cleanup in the event of a spill; and
   4. Best management practices proposed to be utilized.

21.50.540 Fish and Wildlife Habitat Conservation Areas - Shoreline Critical Area Regulations

A. This section applies to all clearing, uses, modifications, or development activities within designated fish and wildlife habitat conservation areas (FWHCAs) and associated buffers.

B. Designation. All areas meeting one or more of the following criteria, regardless of any formal identification, are hereby designated FWHCAs:

1. The shoreline buffer as mapped by the City, which protects riparian habitat, and the waters and land underneath the Spokane River are FWHCAs. The City protects shoreline functions of these through the Shoreline Buffer established in SVMC 21.50.230 and the vegetation conservation standards in SVMC 21.50.260.

2. Areas where the following species and/or habitats have a primary association:
   a. Federally designated endangered and threatened species. The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service shall be consulted for current listing status.
   b. State-designated endangered, threatened, and sensitive species pursuant to WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The WDFW maintains the most current listing and shall be consulted for current listing status.
   c. State priority habitats and areas associated with state priority species. Priority habitats and species (PHS) are managed by the WDFW. Priority habitat maps are amended from time to time by WDFW. Within the City, priority habitats include wetlands, open waterways, riparian areas, urban open space, and the habitat associated with individual native species. Priority habitat data is included in the City's Fish and Wildlife Habitat Critical Areas Map.

3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from upland areas for mitigation purposes. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as stormwater treatment or detention facilities, wastewater treatment facilities, temporary construction ponds, and landscape amenities. To distinguish between ponds and wetlands, refer to current state or federal definitions and guidance.

4. Ponds or lakes artificially created as a result of mining once mining is complete and the mine reclamation plan has been implemented and deemed complete by DNR.

5. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses, including wetlands, within the jurisdiction of the state of Washington, as classified in WAC 222-16-030. Water type classifications are as follows:
   a. "Type S water" means all waters, within their bankable width, as inventoried as "shorelines of the state" pursuant to chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands. Type S waters have mean annual flows averaging 20 or more cubic feet per second.
   b. "Type F water" means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:
      i. Waters that are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the City to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such

diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less.

ii. Waters that are diverted for use by federal, state, tribal, or private fish hatcheries. Such waters shall be considered Type F water upstream from the point of diversion for 1,500 feet, including tributaries, if highly significant for protection of downstream water quality. The City may allow additional harvest beyond the requirements of Type F water designation provided the City determines, after a landowner-requested on-site assessment by the WDFW, Ecology, the affected tribes, and interested parties that:

(1) The management practices proposed by the landowner adequately protect water quality for the fish hatchery; and

(2) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery.

iii. Waters that are within a federal, state, local, or private campground having more than 10 camping units, provided that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail, or other park improvement.

iv. Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(1) The site is connected to a fish habitat stream and accessible during some period of the year; and

(2) The off-channel water is accessible to fish.

c. "Type Np water" means all segments of natural waters within the bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations then Type Np waters begin at a point along the channel where the contributing basin area is at least 300 acres.

d. "Type Ns water" means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and that are not located downstream from any stream reach that is a Type Np water. Type Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters.

6. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the DNR.

7. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the DNR through the Natural Heritage Program.

8. Lands designated on state, regional, or local government agency plans (e.g. parks or transportation) as useful or essential for preserving connections between habitat blocks and open spaces.

C. Habitat Buffers and Riparian Management Zones.

1. Buffers to protect state- or federally designated sensitive wildlife FWHCAs shall be based on the recommendations of a FWHCA critical area report prepared by a qualified professional pursuant to SVMC 21.50.540(F). Habitat buffers shall not exceed 100 horizontal feet from the edge of the FWHCA.

2. Riparian Management Zones for Waters of the State.

a. Designation. Riparian management zones (RMZs) are based on the water type classification as described in SVMC 21.50.540(B). RMZs are measured perpendicular to the ordinary high water line or bankfull channel width boundary of a delineated stream. RMZ widths are summarized as follows:

Table 21.50-9. Riparian Management Zones Buffer Widths

Stream Classification	RMZ Width
Type S – Shorelines of the state	See SVMC 21.50.230
Type F – Natural waters not classified as shorelines of the state with fish (e.g. Chester and Saltese Creeks)	150'
Type Np – Non-fish, perennial	50'
Type Ns – Non-fish, seasonal	30'

b. RMZ Requirements.

i. RMZs shall be retained or maintained in a natural condition, and vegetation within RMZs shall be conserved as feasible to provide shade, habitat, and water quality functions for the associated stream.

ii. Where activities are proposed within a RMZ, mitigation measures shall be specified in a habitat management plan and may include but are not limited to one or more of the following:

(1) Fencing of riparian buffer area to protect remaining vegetation;

(2) Non-native/noxious weed removal and maintenance; and/or

(3) Enhancement of RMZ through planting of native vegetation.

iii. Proposed pedestrian/bike trails shall demonstrate though best available science that the location and width of the trail minimizes any adverse impacts on habitat and that measures to reduce effects during construction are implemented.

iv. Off-road motorized vehicle use in riparian management zones is prohibited.

D. Performance standards. All development and uses shall be prohibited within FWHCAs and their buffers except when they are in accordance with this subsection (SVMC 21.50.540(D)).

1. No Net Loss. A FWHCA buffer may be altered only if the proposed alteration of the habitat or the mitigation proposed does not create a net loss of the quantitative and qualitative shoreline ecological functions necessary to sustain the FWHCA.
2. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a FWHCA unless authorized by a state or federal permit or approval.
3. Contiguous functioning habitat corridors are preferred to minimize the isolating effects of development on habitat areas.
4. Vegetation.
   a. Vegetation shall be maintained in its natural state and shall be disturbed only as minimally necessary for the development.
   b. Riparian vegetation shall not be removed unless there are no other alternatives available, as documented in a habitat management plan prepared by a qualified professional. When it is necessary, only those areas of vegetation that are absolutely unavoidable may be cleared, and shall be re-vegetated with natural riparian vegetation as soon as possible.
5. The subdivision and short subdivision of land shall comply with the following provisions:
   a. Plat area that is located wholly within a FWHCA or its buffer may not be subdivided;
   b. Plat area that is located partially within a FWHCA or its buffer may be divided; provided, that an accessible and contiguous portion of each new lot is located outside of the habitat conservation area or its buffer; and
   c. Access roads and utilities serving the proposal may be permitted within the FWHCA and associated buffers only if the City determines that no other feasible alternative exists and when consistent with Chapter 21.50 SVMC.
6. A project may be conditioned to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:
   a. Establishment of buffer zones;
   b. Preservation of critically important vegetation, including requirements for re-vegetation of disturbed areas with native plants;
   c. Vegetation screenings to reduce the potential for harassment from people and/or domesticated animals;
   d. Limitation of access to the habitat area during critical times of the year;
   e. Fencing to protect wildlife and deter unauthorized access;
   f. Dedication of all or part of the required open space to fish and wildlife habitat conservation; and
   g. Seasonal restriction of construction activities.
7. FWHCAs with endangered, threatened, or sensitive species.
   a. No development shall be allowed within a FWHCA or buffer where state or federal endangered, threatened, or sensitive species have a primary association without state and federal consultation and approval from WDFW and USFWS, respectively.
   b. Approval for alteration of land or activities adjacent to a FWHCA having a primary association with state or federally endangered, threatened, or sensitive species shall not occur prior to consultation with the WDFW.

c. Bald eagle habitat shall be protected consistent with the federal Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act, which may require coordination with the USFWS.

E. Fish and wildlife habitat mitigation.

1. When necessary, fish and wildlife habitat mitigation shall be documented in a habitat management plan (See SVMC 21.50.540(F)(1)).
2. Mitigation sites shall be located:
   a. Preferably to achieve contiguous functioning habitat corridors that minimize the isolating effects of development on habitat areas; and
   b. Within the same aquatic ecosystem as the FWHCA disturbed.
3. Where available, irrigation shall be installed for the mitigation plantings to ensure survival during the first two years of plant growth.
4. Landscaping plans shall be informed by local reference riparian and shrub-steppe vegetation conditions and be prepared by a qualified professional or landscape architect. Only native vegetation may be used in habitat mitigation plans, excluding sterile vegetation used for temporary erosion control.
5. Mitigation shall be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the City Manager.
6. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful.
   a. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from herbivory and competition by grasses and herbaceous plants; and repair and replacement of any dead woody plants.
   b. Areas proposed for mitigation shall be maintained so they have no more than 20 percent total plant cover consisting of invasive species. Invasive species include any species on the state noxious weed list.
7. Monitoring Required. An applicant shall monitor the performance of any required mitigation and submit performance monitoring reports annually to the City.
   a. Mitigation sites shall be monitored for a period of time appropriate to the proposed mitigation as determined in a habitat management plan prepared by a qualified professional.
   b. At the end of the monitoring period, the qualified professional shall be required to verify that the conditions of approval and provisions in the habitat management plan have been satisfied.
   c. Mitigation planting survival shall be 100 percent for the first year and 80 percent for each subsequent year.
   d. If the final annual monitoring report clearly demonstrates that the site has achieved all goals and objectives set forth in the approved habitat management plan, the applicant shall be released from additional mitigation obligations. If, however, performance objectives are not met, additional maintenance, adaptive management, and performance monitoring shall be required until all objectives are met.

F. Additional critical area report requirements for FWHCAs.

1. Report Contents. In addition to the critical area report requirements in SVMC 21.50.500, FWHCA reports shall include:
   a. Habitat assessment, including:

i. Detailed description of vegetation on and adjacent to the project area;

ii. Identification of any species of local importance, PHS, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

iii. A discussion of any federal, state, or local special management recommendations, including WDFW habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

iv. A discussion of measures, including mitigation sequencing, proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity; and

v. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

b. Habitat Management Plan. Any proposal in a FWHCA or within one-quarter mile of a priority species den or nest site shall provide a habitat management plan which includes at least the following:

i. A plan, drawn to scale, that identifies:

(1) The location of the proposed site;

(2) The relationship of the site to surrounding topography and developed areas;

(3) The nature and intensity of the proposed use or activity;

(4) Proposed improvement(s) locations and arrangements;

(5) The location of the ordinary high water mark, shoreline jurisdiction, and RMZ boundary lines;

(6) The legal description and the total acreage of the parcel;

(7) Existing structures and landscape features including the name and location of all waters within 300 feet of the proposal; and

(8) The location of priority habitat types or priority species point locations within one-quarter mile of the proposal.

ii. An analysis of the effect of the proposed use or activity upon FWHCAs or associated species and riparian habitat area.

iii. A mitigation plan that may include, but is not limited to:

(1) Establishment of perpetual buffer areas;

(2) Preservation and/or restoration of native flora;

(3) Limitation of access to habitat area;

(4) Seasonal restriction of construction activities;

(5) Clustering of development and preservation of open space;

(6) Signs marking habitats or habitat buffer areas;

(7) Use of low impact development techniques;

(8) Recorded deed, plat, binding site plan, or planned unit development covenant, condition, or restriction legally establishing a riparian FWHCA for subject property;

(9) Conservation or preservation easements; and

(10) Dedication or conveyance of title of a riparian habitat area to a public entity for the purpose of conservation.

iv. A summary of consultation with the WDFW. If the habitat management plan recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl, or wetlands, the USFWS shall receive a copy of the draft habitat management plan and their review comments shall be included in the final report. The City Manager shall have the authority to approve habitat management plans or require additional information.

2. Conditions established by an approved habitat management plan shall be included as a condition of approval for a permit.

21.50.550 Geologically Hazardous Areas - Shoreline Critical Area Regulations

A. Applicability.

1. This section applies to all uses, activities, and structures within designated geologically hazardous areas.
2. Applications for development within the shoreline jurisdiction shall identify if it is located within a geohazard area as designated on the City Critical Areas and Priority Habitats Map. The City Manager may require additional information based on the criteria in SVMC 21.50.550 to identify unmapped geohazards if application material and/or a site visit indicate the potential for geohazard.

B. Designation and classification.

1. Areas susceptible to erosion, sliding earthquake, or other geological events are designated geologically hazardous areas in accordance with WAC 365-190-120, Geologically Hazardous Areas.
2. Categories.
   a. Erosion hazard areas are identified by the NRCS as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas also include areas with slopes greater than 15 percent.
   b. Landslide hazard areas are subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope, slope aspect, structure, hydrology, or other factors and include the following:
      i. Areas of historic failures, including:
         (1) Areas delineated by the NRCS as having a significant limitation for building site development; and
         (2) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or WDNR;
      ii. Areas with all of the following characteristics:
         (1) Slopes 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 groundwater seepage;
      iii. 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 this epoch;

iv. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

v. Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

vi. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;

vii. Areas that show evidence of, or are at risk from snow avalanches;

viii. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

ix. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

c. Seismic hazard areas are subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of past earthquake damage.

C. Standards applicable to all geologic hazard areas.

1. Any development or uses proposed within 50 feet of a geologic hazard area shall prepare a critical areas report satisfying the general critical area report requirements in SVMC 21.50.500 and the additional standards for Geologic Hazard Areas in SVMC 21.50.550(E).

2. Development or uses within geologically hazardous areas or associated buffers shall only be allowed when the proposed development or use:

a. Does not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

b. Does not adversely impact other critical areas;

c. Is designed so that the hazard is eliminated or mitigated to a level equal to or less than pre-development conditions; and

d. Is determined to be safe as designed and under anticipated conditions by a Qualified Professional.

3. New development that requires structural shoreline stabilization over the life of the development is prohibited, except in instances where:

a. Stabilization is necessary to protect allowed uses consistent with SVMC 21.50.420(B)(5);

b. No alternative locations are available;

c. Shoreline modifications do not negatively affect other critical areas pursuant to SVMC 21.50.460; and

d. Stabilization measures conform to WAC 173-26-231, Shoreline Modifications.

D. Standards applicable to erosion and landslide hazard areas.

1. Development within an Erosion or Landslide Hazard Area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of the

SMP. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function:

a. Development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the Uniform Building Code as adopted or amended;
b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
c. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;
d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
g. Development shall be designed to minimize impervious lot coverage.

2. Buffers from all edges of Erosion or Landslide Hazard Areas.
   a. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.
   b. The buffer may be reduced to a minimum of 10 feet when a Qualified Professional demonstrates that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.
   c. The buffer may be increased where the City Manager determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.
3. Removal of vegetation from an Erosion or Landslide Hazard Area and/or buffer shall be prohibited unless as part of an approved alteration plan consistent with SVMC 21.50.260 Shoreline Vegetation Conservation.
4. New utility lines and pipes shall be permitted only when the Applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide.
5. Stormwater conveyance shall be allowed only when the pipe design includes a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
6. New point discharges from drainage facilities and roof drains onto or upstream from Erosion or Landslide Hazard Areas shall be prohibited except as follows:
   a. If it is conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;
   b. If it is discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or
   c. If it is dispersed or discharged upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

7. Division of land in Erosion or Landslide Hazard Areas and associated buffers is subject to the following:
    a. Land that is located wholly within a designated Erosion or Landslide Hazard Area or an associated buffer shall not be subdivided.
    b. Land that is located partially within a designated Erosion or Landslide Hazard Area or an associated buffer may be subdivided, provided that each resulting lot has sufficient buildable area outside of the Erosion or Landslide Hazard Area and buffer to accommodate reasonable development without impacting the critical area or requiring structural stabilization consistent with SVMC 21.50.180(B)(5) General Provisions.
    c. Access roads and utilities may be permitted within an Erosion or Landslide Hazard Area and associated buffers if the City determines that no other feasible alternative exists.
8. On-site sewage disposal systems, including drain fields, shall be prohibited within Erosion or Landslide Hazard Areas and associated buffers.

E. Additional critical areas report requirements for geologically hazardous areas reports. In addition to the critical area report requirements in SVMC 21.50.500, geologically hazardous area reports shall include:
1. A site plan showing the following:
    a. The location of springs, seeps, or other surface expressions of groundwater on or within 200 feet of the project area or that have potential to be affected by the proposal;
    b. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and
    c. The following additional information for a proposal impacting an Erosion Hazard or Landslide Hazard Area:
        i. The height of slope, slope gradient, and cross section of the project area;
        ii. Stormwater runoff disposal location and flow patterns; and
        iii. The location and description of surface water runoff.
2. A geotechnical study that addresses the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, including:
    a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
    b. A detailed overview of the field investigations; published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas;
    c. Site history regarding landslides, erosion, and prior grading;
    d. A description of the vulnerability of the site to seismic and other geologic events;
    e. Proposals impacting an Erosion or Landslide Hazard Area shall include the following additional information:
        i. A description of the extent and type of vegetative cover;
        ii. An estimate of load capacity including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural development;

iii. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

iv. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100 year storm event;

v. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

vi. A study of slope stability including an analysis of proposed angles of cut and fill, and site grading;

vii. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

viii. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

f. A detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties;

g. Recommendations for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis;

h. A mitigation plan addressing how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation);

i. Proposals impacting an Erosion or Landslide Hazard Area shall include the following additional information:

i. An erosion and sediment control plan prepared in compliance with requirements set forth in SVMC 22.150 Stormwater Management Regulations; and

ii. Drainage plan for the collection, transport, treatment, discharge, and recycle of water;

j. Location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and replanting plan, or other means for maintaining long-term soil stability; and

k. A plan and schedule to monitor stormwater runoff discharges from the site shall be included if there is a significant risk of damage to downstream receiving waters due to:

i. Potential erosion from the site;

ii. The size of the project; or

iii. The proximity to or the sensitivity of the receiving waters.

3. A geotechnical report, prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, may be incorporated into the required critical area report. The Applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.

21.50.560 Frequently Flooded Areas - Shoreline Critical Area Regulations

A. Incorporation and applicability. SVMC 21.30 Floodplain Regulations are incorporated by reference herein and apply to all uses, activities, and structures within frequently flooded areas.

B. Additional critical areas report requirements for frequently flooded areas. In addition to the critical area report requirements in SVMC 21.50.500, critical area reports for frequently flooded areas shall include:

1. A site plan showing:
    a. All areas of a special flood hazard within 200 feet of the project area, as indicated on the flood insurance map(s);
    b. Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas; and
    c. Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been flood proofed. Alterations of natural watercourses shall be avoided, if feasible. If unavoidable, the critical area report shall include:
        i. A description of and plan showing the extent to which a watercourse will be altered or relocated;
        ii. A maintenance plan that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished and downstream or upstream properties are not impacted; and
        iii. A description of how the proposed watercourse alteration complies with the requirements of FWHCAs, the SMP, and other applicable state or federal permit requirements.

Appendix A-1 Shoreline Master Program Definitions

A. General Provisions.

The definitions provided herein are supplemental to the definitions provided in Appendix A and only apply for use with the City's SMP, including chapter 21.50 Spokane Valley Municipal Code (SVMC). Solely for purposes of the City's SMP, if a conflict exists between these definitions and definitions in Appendix A, the definitions in Appendix A-1 shall govern. The definition of any word or phrase not listed in Appendix A-1 which is ambiguous when administering the SMP shall be defined by the City's Community Development Director, or his/her designee, from the following sources in the order listed:

1. Any City of Spokane Valley resolution, ordinance, code, or regulation;
2. Any statute or regulation of the State of Washington;
3. Legal definitions from the Hearings Board, from Washington common law, or the most recently adopted Black's Law Dictionary; or
4. The most recently-adopted Webster's New Collegiate Dictionary.

B. Definitions.

Accessory or appurtenant structures: A structure that is necessarily connected to the use and enjoyment of a single-family residence, including garages, sheds, decks, driveways, utilities, fences, swimming pools, hot tubs, saunas, tennis courts, installation of a septic tank and drainfield, and grading which does not exceed 250 cubic yards and does not involve placement of fill in any wetland or waterward of the OHWM.

Agricultural activities: Relating to the science or art of cultivating soil or producing crops to be used or consumed directly or indirectly by man or livestock, or raising of livestock. The term has the full meaning as set forth in WAC 173-26-020(3)(a) as adopted or amended.

Amendment: A revision, update, addition, deletion, and/or reenactment to an existing SMP.

Applicant: A person who files an application for permit under the SMP and may be the owner of the land on which the proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

Aquaculture: The culture or farming of fish, shellfish, or other aquatic plants and animals.

Associated wetlands: Those wetlands (see "Wetlands" definition) that are in proximity to and either influence, or are influenced by, a lake or stream subject to the SMA.

Average grade level: The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of OHWM. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.

Best Management Practices (BMPs): Site-specific design strategies, techniques, technologies, conservation and maintenance practices, or systems of practices and management measures that minimize adverse impacts from the development or use of a site.

Bioengineering: Project designs or construction methods which use living plant material or a combination of living plant material and natural or synthetic materials to establish a complex root grid within the bank which is resistant to erosion, provides bank stability, and promotes a healthy riparian environment. Bioengineering approaches may include use of wood structures or clean angular rock to provide stability.

Boating facilities: Boating facilities include boat launches, ramps, public docks, commercial docks, and private docks serving more than four residences, together with accessory uses such as Americans with Disabilities Act-compliant access routes, boat and equipment storage, user amenities such as benches and picnic tables, and restroom facilities.

Buffer or Shoreline buffer: The horizontal distance from the OHWM or critical area which is established to preserve shoreline or critical area functions by limiting or restricting development. See Appendix A-2, Shoreline Buffers Map. Permitted development and activities within buffers depend on the type of critical area or resource land the buffer is protecting.

Clearing: The destruction or removal of ground cover, shrubs, and trees including, but not limited to, root material removal and/or topsoil removal.

Commercial uses: Those uses that are involved in wholesale, retail, service, and business trade. Examples of commercial uses include restaurants, offices, and retail shops.

Conditional use: A use, project, or substantial development which is classified as a conditional use or is not classified within the SMP.

Degrade: To impair with respect to some physical or environmental property or to reduce in structure or function.

Development: A use consisting of the construction or exterior alteration of structures; dredging; drilling; 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 SMA 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 regulations: The controls placed on development or land uses by the City, including, but not limited to, zoning ordinances, building codes, critical areas ordinances, all portions of the SMP other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

Dock: A floating platform over water used for moorage of recreational or commercial watercraft.

Dredging: The removal of sediment, earth, or gravel from the bottom of a body of water, for the deepening of navigational channels, to mine the sediment materials, to restore water bodies, for flood control, or for cleanup of polluted sediments.

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

Ecology: Washington State Department of Ecology.

Ecosystem-wide process: 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.

Enhancement: Alteration of an existing resource to improve its ecological function without degrading other existing functions.

Exemption or Exempt development: Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355, and RCW 90.58.515. See also "Shoreline exemption, letter of".

Feasible: An action, such as a project, mitigation measure, or preservation requirement, which meets all of the following conditions:

1. 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;
2. The action provides a reasonable likelihood of achieving its intended purpose;
3. The action does not physically preclude achieving the project's intended legal use; and
4. In cases where the SMP requires 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 the short- and long-term time frames.

Fill: The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Depositing topsoil in a dry upland area for landscaping purposes is not considered a fill.

Flood hazard reduction: Measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Footprint: That area defined by the outside face of the exterior walls of a structure.

Forest practices: Any activity relating to growing, harvesting, or processing timber, including, but not limited to, uses defined in RCW 76.09.020.

Grading: 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: The place or type of site where a plant or animal lives and grows.

Habitat enhancement: Actions performed within an existing shoreline, critical area, or buffer to intentionally increase or augment one or more ecological functions or values, such as increasing aquatic and riparian plant diversity or cover, increasing structural complexity, installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

Hearings Board: The Shoreline Hearings Board established by the SMA.

Height: Height is measured from average grade level to the highest point of a structure; provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height; provided further that temporary construction equipment is excluded from this calculation.

In-stream structure: A structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or cause the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

Industrial uses: Facilities for processing, manufacturing, fabrication, assembly, and storage of finished or semi-finished products.

Landward: To, or towards, the land in a direction away from a water body.

May: The action is acceptable, provided it conforms to the provisions of this SMP.

Mining: The removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses.

Mitigation or Mitigation sequencing: To avoid, minimize, or compensate for adverse impacts.

Native: For the purposes of this SMP, "native" means a plant or animal species that naturally occurs in Spokane County, or occurred in Spokane County at the time of Euro-American exploration and settlement, beginning in the early 19th century.

No net loss: The standard for protection of shoreline ecological functions established in RCW 36.70A.480 as adopted or amended, and as that standard is interpreted on an on-going basis by courts, the Growth Management Hearings Board, or the Hearings Board. The concept of "no net loss" as used herein, recognizes that any use or development has potential or actual, short-term or long-term impacts which may diminish ecological function and that through application of appropriate development standards and employment of mitigation measures in accordance with mitigation sequencing, those impacts will be addressed in a manner necessary to assure that the end result will not cumulatively diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, the no net loss standard protects to the greatest extent feasible existing ecological functions and favors avoidance of new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Nonconforming lot: means a legally established lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth, or area due to subsequent changes to the master program.

Nonconforming structure: A structure within shoreline jurisdiction which was lawfully constructed or established within the application process 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: A shoreline use which was lawfully established or established within the application process 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.

Non water-oriented uses: Any uses that are not water-dependent, water-related, or water-enjoyment as defined by the SMP.

Off-site mitigation: To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by an activity.

Ordinary high water mark (OHWM): The mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City, provided that in any area where the OHWM cannot be found, the OHWM adjoining freshwater shall be the line of mean high water.

Pier: A fixed platform over water used for moorage of recreational or commercial watercraft.

Priority habitats and species: Habitats and species designated by the Washington Department of Fish and Wildlife as requiring protective measures for their survival due to population status,

sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority species include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (such as bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable. Washington Department of Fish and Wildlife maintains maps of known locations of priority habitats and species in Washington State.

Provisions: Policies, regulations, standards, guideline criteria, or environment designations.

Public access: The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Public facilities: Facilities and structures, operated for public purpose and benefit, including, but not limited to, solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating and transfer facilities, gas distribution lines and storage facilities, stormwater mains, and wastewater treatment facilities.

Qualified professional: A person who, in the opinion of the Director, has appropriate education, training and experience in the applicable field to generate a report or study required in this SMP.

1. For reports related to wetlands, this means a certified professional wetland scientist or a non-certified professional wetland scientist with a minimum of five years' experience in the field of wetland science and with experience preparing wetland reports.
2. For reports related to critical aquifer recharge areas, this means a hydrogeologist, geologist, or engineer, who is licensed in the State of Washington and has experience preparing hydrogeologic assessments.
3. For reports related to fish and wildlife habitat conservation areas this means a biologist with experience preparing reports for the relevant type of habitat.
4. For reports related to geologically hazardous areas this means a geotechnical engineer or geologist, licensed in the State of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems.
5. For reports related to frequently flooded areas this means a hydrologist or engineer, licensed in the State of Washington with experience in preparing flood hazard assessments.
6. For reports related to cultural and archaeological resources and historic preservation, this means a professional archaeologist or historic preservation professional.

RCW: Revised Code of Washington.

Recreational use: Commercial and public facilities designed and used to provide recreational opportunities to the public.

Residential use: Uses for residential purpose.

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

Riparian area: The interface area between land and a river or stream. The area includes plant and wildlife habitats and communities along the river margins and banks.

Setback or shoreline setback: The minimum required distance between a structure and the shoreline buffer that is to remain free of structures.

Shall: An action that is mandatory and not discretionary.

Shorelands or shoreland areas: Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands associated with the streams and lakes which are subject to the provisions of the SMA and the SMP; all of which will be designated as to location by Ecology.

Shoreline exemption, letter of: Documentation provided by the City that proposed development qualifies as an Exempt Development (as that term is defined herein) and that the proposed development is consistent with chapter 21.50 SVMC and other local and state requirements, including the State Environmental Policy Act as adopted or amended when applicable.

Shoreline jurisdiction and shoreline areas: All "shorelines of the state" and "shorelands".

Shoreline Management Act (SMA): The Shoreline Management Act of 1971 as set forth in chapter 90.58 RCW as adopted or amended.

Shoreline Master Program (SMP): The comprehensive use plan applicable to the shorelines of the state within the City, including the use regulations, together with maps, goals and policies, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

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

Shoreline permit(s): Means any substantial development, variance, conditional use permit, or revision authorized under chapter 21.50 SVMC and chapter 90.58 RCW.

Shoreline stabilization: Actions taken to prevent or mitigate erosion impacts to property or structures caused by shoreline processes such as currents, floods, or wind action. Shoreline stabilization includes, but is not limited to, structural armoring approaches such as bulkheads, bulkhead alternatives, and nonstructural approaches such as bioengineering.

Shoreline substantial development permit: A permit required by the SMP for substantial development within the shoreline jurisdiction.

Shorelines: All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

Shorelines of statewide significance: Has the meaning as set forth in RCW 90.58.030(2)(f) as adopted or amended.

Shorelines of the state: The total of all "shorelines" and "shorelines of statewide significance" within the state.

Should: An action which is required unless there is a demonstrated, compelling reason based on policy of the SMA and the SMP, against taking the action.

Substantial development: Any development of which the total cost or fair market value exceeds $6,416, or any development which materially interferes with the normal public use of the water or

shorelines of the state. The current thresholds will be adjusted for inflation by the State Office of Financial Management every five years, beginning from July 1, 2007.

Temporary impact: Impacts to a critical area that are less than one year and expected to be restored following construction.

Transportation facilities: Facilities consisting of the means and equipment necessary for the movement of passengers or goods.

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

Utilities: Services and facilities that produce, convey, store or process power, gas, sewage, water, stormwater, communications, oil, and waste.

Variance: A process to grant relief from the specific bulk, dimensional, or performance standards through submission of a shoreline variance. A variance is not a means to change the allowed use of a shoreline.

Viewing platform: A platform located landward of the OHWM used for viewing pleasure.

WAC: Washington Administrative Code.

Water-dependent use: 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: A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

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

Water quality: The physical characteristics of water within the shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics.

Water quantity: The flow rate and/or flow volume of stormwater or surface water. Where used in the SMP, the term "water quantity" refers to uses and/or structures regulated under the SMP affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of the SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. 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
2. 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.

Wetlands: Areas that are inundated or saturated by surface water 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. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.