

- a. Incorporating most current scientific and technical information. The report shall use scientifically valid methods and studies in the analysis of data and field reconnaissance and reference the source of information used. The report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this SMP.
- b. Minimum report contents. At a minimum, the report shall contain the following:
- i. Resume of the principal author(s), which disclose(s) their technical training and experience and demonstrates their stature as a qualified professional; the study shall be performed by a professional who is licensed or qualified as an expert in the Critical Resources at issue.
  - ii. Identification and characterization of the Critical Area and associated buffers.
  - iii. Assessment of any potential hazards associated with the proposed development.
  - iv. Assessment of the impacts of the development proposal on any Critical Area.
  - v. Mitigation plan which reduces impacts on the Critical Area(s) to an insignificant level and specifies maintenance, monitoring, and bonding measures (where necessary) per Ferry County CAO
  - vi. Additional information and requirements that may be required within each critical area subsection of this SMP.

## 8. Allowed Uses and Activities

- a. Exempt activities under this Section shall avoid impacts to critical areas and critical area buffers. Exempt activities shall use reasonable methods (including BMPs) to avoid potential impacts to critical areas. Being exempt from this Section does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

b. In addition to Section 7.08, Exemptions from Shoreline Substantial Development Permits, the following situations are exemptions to provisions of SMP Section 5.00, Critical Areas; however, the listed exemptions may not be exempt from other state or federal regulations or permit requirements.

i. Wetlands and Fish and Wildlife Habitat Conservation Areas. Existing and ongoing agricultural activities include ongoing vegetation management and other maintenance activities, but do not include new activities that introduce new adverse impacts to wetlands or other aquatic resources. Conversion of wetlands that are not currently in agricultural use, regardless of their wetlands rating, to a new agricultural use should be subject to the same regulations that govern new development.

ii. Existing and ongoing agricultural activities include ongoing vegetation management and other maintenance activities, but do not include new activities that introduce new adverse impacts to fish and wildlife habitat conservation areas.

iii. Existing and ongoing agricultural activities and related development activities, provided no alteration of flood storage capacity or conveyance, or increase in the extent or nature of impact to a critical area or its buffer occurs, beyond that which has occurred prior to the effective date of this section.

iv. Passive recreational activities, including, but not limited to, fishing, bird watching, boating, swimming, hiking, and use of nature trails, provided the activity does not alter the critical area or its buffer.

v. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, provided the harvesting does not require tilling soil, planting crops, or changing existing topography, water conditions, or water sources.

vi. Educational and scientific research, provided the activity does not alter the critical area or its buffer.

## Section 5.02 General Mitigation Requirements

- A. General Mitigation Standards and the scope and content of the Mitigation Plan are incorporated from the Ferry County CAO and CAO Appendix A (Habitat Management and Mitigation Plan Contents).

## Section 5.03 Wetlands

### A. Purpose

1. The purpose of this Section is to promote public health and welfare by instituting local measures to preserve naturally occurring wetlands that exist in the Coalition's shoreline jurisdiction for their associated value. These areas may serve a variety of vital functions, including, but not limited to, flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education, and scientific research.
2. This Section incorporates by reference Section 5 of the Ferry County CAO, with the following amendments to CAO Section 5.03, Classification; CAO Section 5.04 Delineation; CAO Section 5.05 Protective Buffer Zones; and CAO Section 5.11 Wetland Mitigation.

### B. Classification

1. CAO Section 5.03 is incorporated by reference with the following amendments:
  - a. Reference the following publication of the Washington State Wetlands Rating System for Eastern Washington – Ecology Publication #14-06-030 (October 2014), as amended.
  - b. Wetland category description per CAO Section 5.03 are adopted with the following updates to the scoring numbers:
    - i. Category I – Wetlands scoring 22 points or more.
    - ii. Category II – Wetlands scoring between 19 and 21 points.
    - iii. Category III – Wetlands scoring between 16 and 18 points.
    - iv. Category IV – Wetlands scoring less than 16 points.

### C. Delineation

1. CAO Section 5.04 is incorporated by reference with the following amendment:

- a. Identification of wetlands and delineation of their boundaries pursuant to this Section shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (1987 Corps of Engineers Wetlands Delineation Manual and the Arid West Final Regional Supplement, last updated in 2008), or as amended. All areas within Ferry County shoreline jurisdiction meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Section.

D. Protective Buffer Zones

1. CAO Section 5.05 is incorporated by reference with the following amendments:

- a. The Land Use Intensity Table 5.03(D)(1)(a) describes the types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.

**Table 5.03(D)(1)(a). Land Use Intensity Table**

| Level of Impact from Proposed Change in Land Use | Types of Land Use Based on Common Designations   |
|--|--|
| High   | <ul style="list-style-type: none"> <li>• Commercial</li> <li>• Urban</li> <li>• Industrial</li> <li>• Institutional</li> <li>• Retail sales</li> <li>• Residential (parcel less than 2.5 acres per one unit)</li> <li>• High-intensity recreation (e.g., golf courses and ball fields)</li> </ul>  |
| Moderate   | <ul style="list-style-type: none"> <li>• Residential (parcel equal to or greater than 2.5 acres per one unit)</li> <li>• Moderate-intensity open space (e.g., parks with biking and jogging)</li> <li>• Paved driveways and gravel driveways serving three or more residences</li> <li>• Paved trails</li> </ul>   |
| Low  | <ul style="list-style-type: none"> <li>• Low-intensity open space (e.g., hiking, bird-watching, and preservation of natural resources)</li> <li>• Timber management</li> <li>• Gravel driveways serving two or fewer residences</li> <li>• Unpaved trails</li> <li>• Utility corridor without a maintenance road and little or no vegetation management</li> </ul> |

b. The wildlife habitat scoring for the Wetland Standard Buffer Table is amended as follows:

i. Low wildlife habitat: 3 to 4 points

ii. Moderate wildlife habitat: 5 to 7 point

iii. High wildlife habitat: 8 to 9 points

E. Wetland Mitigation Ratios

1. CAO Section 5.11 is incorporated by reference with the following amendments:

2. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands, and the second specifies the acreage of wetlands altered.

Table 5.03(E)(1). Mitigation Ratios (for Eastern Washington)

| Category and Type of Wetland Impacts    | Re-establishment or Creation | Rehabilitation Only <sup>1</sup> | Re-establishment or Creation and Rehabilitation <sup>1</sup> | Re-establishment or Creation and Enhancement <sup>1</sup> | Enhancement Only <sup>1</sup> |
|---|------------------------------|----------------------------------|--|---|-------------------------------|
| All Category IV                         | 1.5:1                        | 3:1                              | 1:1 R/C and 1:1 RH   | 1:1 R/C and 2:1 E   | 6:1                           |
| All Category III                        | 2:1                          | 4:1                              | 1:1 R/C and 2:1 RH   | 1:1 R/C and 4:1 E   | 8:1                           |
| All other Category II                   | 3:1                          | 6:1                              | 1:1 R/C and 4:1 RH   | 1:1 R/C and 8:1 E   | 12:1                          |
| Category I based on score for functions | 4:1                          | 8:1                              | 1:1 R/C and 6:1 RH   | 1:1 R/C and 12:1 E  | 16:1                          |

Notes:

1. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

E = Enhancement

R/C = Reestablishment or Creation

1 RH = Rehabilitation

2 Reference:

3 Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and  
 4 U.S. Environmental Protection Agency Region 10, March 2006. *Wetland Mitigation in Washington State*  
 5 – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology  
 6 Publication #06-06-011a. Olympia, Washington.

## 8 Section 5.04 Aquifer Recharge Areas

### 9 A. Purpose

- 10 1. The purpose and intent of this Section is to safeguard groundwater  
 11 resources within the shoreline jurisdiction from hazardous substance and  
 12 hazardous waste pollution by controlling or abating future pollution from  
 13 new land uses or activities.
- 14 2. This Section incorporates by reference Section 6 of the Ferry County  
 15 CAO, for aquifer recharge areas within the shoreline jurisdiction.

## 16 Section 5.05 Frequently Flooded Areas

### 17 A. Purpose

- 18 1. The purpose of this Section is to promote the public health, safety, and  
 19 welfare of the community by recognizing potential hazards that may be  
 20 caused by development in areas where severe flooding is anticipated to  
 21 occur. The intent of this section is to assist with minimizing public and  
 22 private losses due to flood hazards by avoiding development in frequently  
 23 flooded areas within the shoreline jurisdiction and implementing  
 24 protective measures contained in Ferry County Coalition's SMP and local  
 25 Flood Hazard Protection Ordinances, as updated.Designation
- 26 2. This Section additionally incorporates by reference Section 7 of the  
 27 Ferry County CAO, for frequently flooded areas within the shoreline  
 28 jurisdiction, with the following amendments to Section 7.04, Designation.

### 29 B. Designation

- 30 a. The area included as Frequently Flood Area are the areas within  
 31 the 100-year floodplain, or areas that have experienced historic  
 32 flooding, or CMZ identified through mapping developed as part of  
 33 the 2014 SMP update. The CMZ is considered to be that area of a  
 34 stream channel which may erode as a result of normal and  
 35 naturally occurring processes and has been mapped consistent with  
 36 WAC 173-26-221(3)(b).
- 37 b. CMZs located within the shoreline jurisdiction shall be regulated  
 38 consistent with provisions in SMP Section 3.08.

## Section 5.06 Geologically Hazardous Areas

### A. Purpose

1. The purpose of this Section is to reduce the threats to public health and safety posed by geologic hazards within the shoreline jurisdiction. The intent is to reduce incompatible development in areas of significant geologic hazard. Development incompatible with geologic hazards may not only place itself at risk but may also increase the hazards to surrounding development. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction or altering mining practices so risks to health and safety are minimized. When technology cannot reduce the risks to acceptable levels, development in the hazard area is best to be avoided.
2. Additionally, this Section incorporates by reference Section 8 of the Ferry County CAO, for geologically hazardous areas within the shoreline jurisdiction.

## Section 5.07 Fish and Wildlife Habitat Conservation Areas

### A. Purpose

1. The purpose of this Section is to provide a framework to evaluate the development, design, and location of structures to ensure critical fish and wildlife habitat within the shoreline jurisdiction is preserved and protected, in order to ensure no net loss of ecological function and avoid habitat fragmentation. These regulations seek to protect critical habitat areas so populations of endangered, threatened, and sensitive species are given consideration during the shoreline development review process.

### B. Classification

1. This Section additionally incorporates by reference Section 9 of the Ferry County CAO, for fish and wildlife habitat conservation areas within the shoreline jurisdictions, with the following amendments to Section 9.01, Classification
2. Riparian Habitat Areas. For the protection of habitat along rivers, streams, and lakes, the buffer widths for shrub-steppe habitat as provided in Table 3.02 (B) are applicable to the following reaches:
  - a. Columbia River/Lake Roosevelt – Subreach 3c and Reach 4
  - b. Sanpoil River Reach 6
    - i. Western (right) bank: From alternate Keller Ferry landing on Sanpoil River to mouth

- 1 ii. Eastern (left) bank: From .25 mile south of where
- 2 Manilla Creek Road intersects with Highway 21 (across the
- 3 river) to mouth
- 4 c. Other areas where shrub-steppe habitat characteristics exist along
- 5 the shoreline.

## **Section 6.00: Existing Uses, Structures, and Lots**

### **Section 6.01 Applicability**

A. All nonconformances in shoreline jurisdiction shall be subject to the provisions of this Section. For nonconformance of use, structures, and lots within shoreline critical areas, SMP Section 5.00, Critical Areas, applies. When there is a conflict between this Section and the Critical Area Section as applicable to critical areas, the more restrictive standards shall apply.

B. The provisions of this chapter do not supersede or relieve a property owner from compliance with the following guidelines:

1. The requirements of the International Building and Fire Codes

2. The provisions of this SMP beyond the specific nonconformance addressed by this chapter

C. A change in the required permit review process (e.g., Shoreline Substantial Development Permit versus a Shoreline Conditional Use Permit) shall not create a nonconformance.

D. Any nonconformance that is brought into conformance for any period of time shall forfeit status as nonconformance, except as specified in SMP Section 6.02, Nonconforming Uses.

E. A nonconforming lot, use, or structure may be deemed legally nonconforming by providing documentation that the use in question occurred prior to the effective date of this SMP, from one of the following documents:

1. Local agency permit

2. Orthophotograph, aerial photograph, or planimetric mapping recognized as legitimate by the agency

3. Tax record

### **Section 6.02 Nonconforming Uses**

A. If, at the effective date of this SMP and any later amendment to it, a legally established use of land exists that is made no longer permissible under the terms of this SMP or future amendments to it, such use may be continued as a nonconforming use so long as it remains otherwise lawful subject to the following conditions:

1. No nonconforming use shall be intensified, enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of this SMP or amendment that made the use no longer

permissible, provided that a nonconforming use may be enlarged, increased, or extended in conformance with applicable bulk and dimensional standards of this SMP upon approval of a Shoreline Conditional Use Permit.

2. No nonconforming use shall be moved in whole or in part to any other portion of the lot that contains the nonconforming use.

3. If any nonconforming use of land ceases for any reason for a period of 1 year, or 12 months during a 2-year period, any subsequent use of such land shall conform to the regulations specified by this SMP for the use environment in which such land is located.

4. A structure, which is being or has been used for a nonconforming use, may be used for a different nonconforming use only upon a finding that all of the following criteria are met:

a. No reasonable alternative conforming use is practical.

b. The proposed use is equally or more appropriate to the shoreline environment than the existing nonconforming use and is at least as consistent with the policies and provisions of the act and this SMP.

c. Such a change of use shall be subject to a Shoreline Conditional Use Permit approval. Conditions may be attached to the permit as are deemed necessary to ensure compliance with the requirements of this SMP and the SMA and to ensure that the use will not become a nuisance or a hazard.

### Section 6.03 Nonconforming Structures

A. If, at the effective date of this SMP or any amendment thereto, a legally established structure or other improvement exists, which is made no longer permissible under the terms of this SMP or amendment thereto, such structure or other improvement may be continued as a nonconforming structure or other improvement so long as it remains otherwise lawful, subject to the following conditions:

1. No nonconforming structure or other improvement shall be altered or changed in a way which increases its nonconformity except as allowed in SMP Section 6.03(A)(2).

2. Expansions of structures that are nonconforming with respect to a required shoreline buffer must meet the following criteria:

a. May not encroach any farther waterward into the required shoreline buffer.

- b. Expansions parallel to or landward of shoreline may be allowed in the buffer, provided that said enlargement does not increase the extent of other applicable bulk and dimension standard nonconformities by farther encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Parallel or landward expansion within the shoreline buffer shall restore a portion of the shoreline buffer with riparian vegetation at a 1:1 area ratio to offset the potential adverse impact. When expansions occur upland of an existing levee or other structure that provides an ecological break in buffer functions, the applicant's critical areas report may justify a smaller ratio, provided that the study demonstrates no net loss of ecological functions.
3. All expansion, extension, maintenance, or repair activities of nonconforming structures or improvements, except for SMP Section 6.03(A)(4), shall be consistent with all other provisions of this SMP, provided that such activities do not increase the size of the structure by more than 1,000 square feet over the existing area before the adoption of the ordinance.
4. Nonconforming single-family residences that are located landward of the OHWM may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in SMP Section 6.03(E) upon approval of a conditional use permit.
5. When damaged, a nonconforming structure may be restored to the configuration existing immediately prior to the time that the structure was damaged, provided that the following criteria are met:
- a. The structure is damaged to an extent not exceeding 75% of the replacement cost of the original development.
- b. The applicant applies for permits needed to restore the development within 1 year of the date the damage occurred.
- c. All permits are obtained, and restoration is completed within 24 months of permit issuance.
- d. The degree of the nonconforming use, building, or structure is not increased.
6. Nothing in this Section will prohibit vertical expansion up to the height allowed in the applicable use environment, provided all other applicable requirements of the local development regulations are met.

7. Upkeep, repairs, and maintenance of a nonconforming structure or other improvement shall be permitted.

B. Should such structure or other improvement be moved for any reason and for any distance, it shall thereafter conform to the regulations for the use environment in which it is located. Conformance shall be required when one of the following situations occurs:

1. A change of use is proposed.

2. The use is terminated or discontinued for more than 1 year, or the structure(s) that houses the use is vacated for more than 1 year.

3. The structure(s) or activity that occurs on the land in which the use is conducted is proposed for relocation.

C. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density.

D. For purposes of this Section, "appurtenant structures" refer to garages, sheds, and other legally established structures. Appurtenant structures do not include bulkheads and other shoreline modifications or overwater structures. For purposes of this Section, "single-family residence" means a detached dwelling designed for and occupied by one family, including those structures and developments within a contiguous ownership which are a normal appurtenance.

## Section 7.00: Administration and Enforcements

### Section 7.01 Roles and Responsibilities

#### A. Shoreline Administrator

1. The Planning Director for the individual members of the Coalition or his/her designee shall serve as the Shoreline Administrator. The Shoreline Administrator shall issue written Shoreline Exemptions as appropriate and, in the case of a Shoreline Substantial Development Permit, grant or deny the permit. The Shoreline Administrator shall administer the shoreline permit and notification systems and shall be responsible for coordinating the administration of shoreline regulations with the Coalition member's land use enforcement, building permits, and all other regulations regarding land use and development.
2. The Shoreline Administrator shall be familiar with regulatory measures pertaining to shorelines and their use, and, within the limits of his or her authority, shall cooperate in the administration of these measures. Permits issued under the provisions of this shoreline regulation shall be coordinated with other applicable land use and development regulatory measures of the Coalition member. The Shoreline Administrator shall establish procedures that advise all parties seeking building permits or other development authorization of the need to consider possible shoreline applications. It is the intent of the Coalition, consistent with its regulatory obligations, to simplify and facilitate the processing of Shoreline Substantial Development Permits.
3. The Shoreline Administrator shall ensure that proposed regulatory or administrative actions shall be liberally construed in accordance with SMP Section 1.05.
4. The Shoreline Administrator shall ensure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Shoreline goals and policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations (where applicable, statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private property.
5. The Shoreline Administrator shall apply SMP Section 5.01, General Provisions, for shoreline critical areas.

#### B. Planning Commission

1. Ferry County

a. The Planning Commission is vested with the responsibility to review this SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the County's planning and regulatory program and make recommendations for amendments thereof to the County Commissioners.

b. Ferry County Planning Commission approves or denies Shoreline Conditional Use Permit and Variance Permit following review of the development application at a regular open public meeting.

2. City of Republic

a. The City of Republic does not have a Planning Commission. The City of Republic City Council reviews Shoreline Variance Permit and Shoreline Conditional Use Permit, following an open regular public meeting.

C. Board of County Commissioners/City Council. The Board of County Commissioners or the City Council is vested with authority to perform the following actions, pursuant to applicable codes:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
2. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission for Ferry County and as part of City Council action for the City of Republic. Substantive amendments shall become effective immediately upon adoption by Ecology per SMP Section 7.16, Amendments to Shoreline Master Program.
3. For the City of Republic, approve or deny all Shoreline Variance and Conditional Use Permits pursuant to SMP Sections 7.06 and 7.07.
4. Conducts closed-record appeal of any recommendation of the Planning Commission pursuant to Ferry County Development Regulations, Section 13.01 for Ferry County (not applicable to City of Republic).
5. Conduct reviews and decide on appeals from the City Council actions, as applicable.

**Section 7.02 Interpretation**

A. Under the administrative provisions, the Shoreline Administrator shall have authority to interpret this SMP, when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.

B. The Shoreline Administrator shall consult with Ecology if formal written interpretations are developed as a result of a lack of clear guidance in the SMA,

the SMP Guidelines, or this SMP to ensure that any are consistent with the purpose and intent of RCW 90.58 and 173-26 WAC.

### Section 7.03 Statutory Noticing Requirements

- A. At a minimum, the Shoreline Administrator shall provide notice in accordance with WAC 173.27-110 and may provide for additional noticing requirements.

### Section 7.04 Application Requirements

- A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180.
- B. The Shoreline Administrator shall provide written informational materials, procedures, instructions, and forms required to submit an application for a Shoreline Substantial Development Permit, Variance Permit, or Conditional Use Permit.
- C. These materials should include a plan coversheet; a Joint Aquatic Resource Permits Application (JARPA) form; SEPA checklist; fee schedule; review criteria; and the process and timelines to assist potential applicants and interested parties on the permit application submittal and review process.
- D. The Shoreline Administrator may vary or waive these requirements according to administrative application requirements on a case-by-case basis.
- E. The Shoreline Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other applicable requirements and the provisions of this SMP.

### Section 7.05 Shoreline Substantial Development Permits

- A. A Shoreline Substantial Development Permit shall be required for all development on shorelines, unless the proposal is specifically exempted from the requirement for this permit as set forth in SMP Section 7.08. Shoreline Substantial Development permits shall be processed as an administrative permit.
- B. The Shoreline Administrator shall review Substantial Development Permit applications, as required in SMP Section 7.04, and approve or deny the permit.
- C. The Shoreline Administrator shall provide notice in accordance with WAC 173.27-110 and may provide additional notice, according to the Coalition member's noticing requirements.
- D. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with all of the following documents:

1. The policies and procedures of the Act, RCW 90.58
2. The applicable provisions of WAC 173-27
3. This SMP

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

F. Nothing shall interfere with the Coalition's ability to require compliance with all other applicable plans and laws.

#### **Section 7.06 Shoreline Conditional Use Permits**

A. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shoreline Administrator and by Ecology.

1. For Ferry County, applications for a Shoreline Conditional Use Permit shall be processed by the Shoreline Administrator and approved by the Planning Commission.

2. For the City of Republic, Shoreline Conditional Use Permit shall be processed with a Type III permit pursuant to Section 17.04.020 of the City of Republic Code.

B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses, provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

C. Uses which are specifically prohibited by this SMP per SMP Table Section 3.01(B), may not be authorized as a conditional use.

D. Review Criteria for Conditional Uses. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following criteria:

1. The proposed use is consistent with the policies of RCW 90.58.020 and the SMP
2. The proposed use will not interfere with the normal public use of public shoreline.
3. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP.

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

5. The public interest suffers no substantial detrimental effect.

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

F. In authorizing a conditional use, special conditions may be attached to the permit by the applicable Coalition member or Ecology to prevent undesirable effects of the proposed use and/or to ensure consistency of the project with the SMA and this SMP. See SMP Section 7.10 and SMP Section 7.11 for application and review process.

G. Nothing shall interfere with the Coalition's ability to require compliance with all other applicable plans and laws.

#### **Section 7.07 Shoreline Variance Permits**

A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of this SMP are prohibited. Applications for Shoreline Variance Permits shall be processed pursuant to the following:

1. Ferry County

a. SMP Section 7.01, Roles and Responsibilities, and Section 12.03, as provided in the County Development Regulations Ordinance.

2. City of Republic

a. For the City of Republic, Shoreline Variance Permits shall also be processed pursuant to SMP Section 7.01, Roles and Responsibilities, and with a Type III Permit pursuant to Sections 17.04.020 and 18.04.360 of the City of Republic Code.

B. Review Criteria

1. Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that

extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

2. Variance Permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland, as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following criteria:

a. The strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes, or significantly interferes with, reasonable use of the property.

b. The hardship described in SMP Section 7.07(B)(2)(a) of this subsection is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own action.

c. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts on the shoreline environment.

d. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.

e. The variance requested is the minimum necessary to afford relief.

f. The public interest will suffer no substantial detrimental effect.

3. Variance Permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland, as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that all of the following criteria are met:

a. The strict application of the bulk, dimensional, or performance standards set forth in the applicable SMP precludes all reasonable use of the property.

b. The proposal can meet the criteria established under SMP Section 7.07(B)(2).

c. The public rights of navigation and use of the shorelines will not be adversely affected.

- 1           4.     In the granting of all Variance Permits, consideration shall be given to the  
2                 cumulative impact of additional requests for like actions in the area. For  
3                 example, if variances were granted to other developments and/or uses in  
4                 the area where similar circumstances exist, the total of the variances shall  
5                 also remain consistent with the policies of RCW 90.58.020 and shall not  
6                 cause substantial adverse effects to the shoreline environment.

7     **Section 7.08   Exemptions from Shoreline Substantial Development Permits**

- 8           A.     An exemption from the Shoreline Substantial Development Permit process is not  
9                 an exemption from compliance with the SMA or this SMP or from any other  
10                regulatory requirements. All proposed uses, activities, or development occurring  
11                within shoreline jurisdiction must conform to the intent and requirements of  
12                RCW 90.58, the SMA, and this SMP, whether or not a permit or other form of  
13                authorization is required.

- 14          B.     Letters of exemption shall be issued by the Shoreline Administrator when an  
15                 exemption applies or when a letter of exemption is required by the provisions of  
16                 WAC 173-27-050 and as follows:

- 17           1.     Any person claiming exemption from the Substantial Development Permit  
18                 requirements shall make an application to the Shoreline Administrator for  
19                 such an exemption in the manner prescribed by the Shoreline  
20                 Administrator, except that no written statement of exemption is required  
21                 for emergency development pursuant to WAC 173-27-040(2)(d).
- 22           2.     The Shoreline Administrator is authorized to grant or deny requests for  
23                 statements of exemption from the Shoreline Substantial Development  
24                 Permit requirement for uses and developments within shorelines that are  
25                 specifically listed in SMP Section 7.08(D). The statement shall be in  
26                 writing and shall indicate the specific exemption of this SMP that is being  
27                 applied to the development and shall provide a summary of the Shoreline  
28                 Administrator's analysis of the consistency of the project with this SMP  
29                 and the SMA. The letter shall be sent to the applicant and maintained on  
30                 file in the offices of the Shoreline Administrator.
- 31           3.     Statements of exemption may contain conditions and/or mitigating  
32                 measures of approval to achieve consistency and compliance with the  
33                 provisions of this SMP and the SMA.
- 34           4.     A denial of an exemption shall be in writing and shall identify the  
35                 reason(s) for the denial. The Shoreline Administrator's decision may be  
36                 appealed pursuant to SMP Section 7.12, Appeals.
- 37           5.     Exempt activities requiring a JARPA shall not be conducted until a  
38                 statement of exemption has been obtained from the Shoreline  
39                 Administrator.

C. Interpretations of exemptions

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
2. A development or use that is listed as a conditional use pursuant to this SMP, or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional, and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.
3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
5. The Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to ensure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with each responsible local government's ability to require compliance with all other applicable laws and plans.

D. The Coalition shall exempt from the Shoreline Substantial Development Permit requirement the following shoreline developments:

1. Any development of which the total cost or fair market value does not exceed \$6,416 or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, as well as equipment or materials.
2. Normal maintenance or repair of existing legally established structures or developments, including damage by accident, fire, or elements. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development; the replacement structure or development is comparable to the original structure or development, including, but not

limited to, its size, shape, configuration, location, and external appearance; and the replacement does not cause substantial adverse effects to shoreline resources or environment.

3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and non-structural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than 1 cubic yard of fill per one 1 foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no farther 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. Bioengineered erosion-control projects may be considered a normal protective bulkhead when any structural elements are consistent with the requirements of this section and when the project has been approved by WDFW.

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, and upon abatement of the emergency situation, the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58, these regulations, or this SMP, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter, RCW 90.58, and this SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

- a. The following criteria shall exist to qualify any action under an emergency provision:

- i. There must be an immediate threat to life, or public or private property, or an immediate threat of serious environmental degradation arising from a natural condition, or non-natural accident or incident.

- ii. The emergency response shall be confined to the action necessary to protect life or property from damage.
    - iii. The scope of the emergency response must be limited to the work necessary to relieve the immediate threat.
    - iv. The emergency response applies only to the period of time in which the actual emergency exists.
  - b. Once the emergency is abated or dissipated as deemed by jurisdictional authorities, compliance with the requirements of this chapter is required.
  - c. Emergency actions shall use reasonable methods that minimize the impact to critical areas and their buffers. Persons who take emergency action shall notify the Shoreline Administrator within 1 working day following commencement of the emergency activity. Following such notification, the Shoreline Administrator shall determine if the action taken was within the scope and definition of emergency actions as defined above. If the Shoreline Administrator determines that the action taken or any part of the action taken was beyond the scope and definition of allowed emergency actions, then the enforcement provisions of SMP Section 7.14, Enforcement, shall apply.
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling, other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.
6. Construction or modification of navigational aids such as channel markers and anchor buoys.
7. 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 does not exceed a height of 35 feet above average grade level and meets all requirements of the applicable Coalition member, other than requirements imposed pursuant to RCW 90.58. Construction authorized under this exemption shall be located landward of the OHWM.
8. Construction of a dock; including a community dock designed for pleasure craft only and for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. This

exception applies when the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500.00 occurs within 5 years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

9. Operation, maintenance, repair, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands.
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
11. Operation and maintenance of existing and future system of dikes, drains, or other facilities existing on September 8, 1975 (where water is being drained from irrigation runoff or shallow groundwater levels artificially recharged through irrigation), which are created, developed, or utilized primarily as a part of an agricultural drainage or diking system.
12. Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State of Washington Energy Facility Site Evaluation Council).
13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if the following requirements are met:
  - a. The activity does not interfere with the normal public use of surface waters.
  - b. The activity will have no significant adverse impact on the environment, including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values.
  - c. The activity does not involve the installation of any structure and, upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity.
  - d. A private entity seeking development authorization under this Section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.

14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.
15. Watershed restoration projects as defined in RCW 89.08.460.
16. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following conditions apply:
  - a. The project has been approved by WDFW.
  - b. The project has received HPA by WDFW pursuant to RCW 77.55.
  - c. The Shoreline Administrator has determined that the project is substantially consistent with the local SMP. The Shoreline Administrator shall make such determination in a timely manner and provide it by letter to the applicant.
  - d. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local SMPs.
17. Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D.
18. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the SMA or this SMP (RCW 90.58.030(2)(d)(ii)).

#### Section 7.09 Duration of Permits

- A. The duration of permits shall be consistent with WAC 173-27-090 as follows:
  1. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within 2 years of the effective date of a substantial development permit. The applicable Coalition member may authorize a single extension for a period not to exceed 1 year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.
  2. Authorization to conduct development activities shall terminate 5 years after the effective date of a substantial development permit. However, the applicable Coalition member may authorize a single extension for a period

not to exceed 1 year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

#### **Section 7.10 Initiation of Development**

- A. Each permit for a Substantial Development, Shoreline Conditional Use, or Shoreline Variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130 or until all review proceedings initiated within 21 days from the date of receipt of the decision are completed. The date of filing for a Substantial Development Permit is the date of actual receipt by Ecology of a local government's final decision on the permit. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of filing means the date a responsible local government or applicant receives the written decision of Ecology. When a Substantial Development Permit and a Conditional Use or Variance Permit are required for a development, the submittal on the permits shall be made concurrently.
- B. Permits for Substantial Development, Shoreline Conditional Use, or Shoreline Variance may be in any form prescribed and used by the Coalition, including a combined permit application form. Such forms will be supplied by the Coalition.
- C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

#### **Section 7.11 Review Process**

- A. After the Coalition member's approval of a Shoreline Conditional Use or Variance Permit, the Shoreline Administrator shall submit the permit to Ecology for approval, approval with conditions, or denial. Ecology shall render and transmit to the Coalition member and the applicant its final decision approving, approving with conditions, or disapproving the permit within 30 days of the date of submittal by the Coalition member pursuant to WAC 173-27-110.
- B. Ecology shall review the complete file submitted by the Coalition member on Shoreline Conditional Use or Variance Permits and any other information submitted or available that is relevant to the application. Ecology shall base its determination to approve, approve with conditions, or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and except as provided in WAC 173-27-210 and the criteria in WAC 173-27-160 and 173-27-170.
- C. The Shoreline Administrator shall provide timely notification of Ecology's final decision to those interested persons having requested notification from local government pursuant to WAC 173-27-130.

## Section 7.12 Appeals

- A. Appeals of Shoreline Permit Decisions. The Coalition member's decisions on shoreline permits may be appealed to the following "bodies" in this sequence:
1. Ferry County Board of County Commissioners in accordance with Ferry County Development Regulations Ordinance Section 13.01, Appeals or Republic City Council in accordance with 2.12.070.
  2. State Shorelines Hearings Board (SHB) in Tumwater.
  3. SHB decisions may be appealed to Superior Court.
  4. Superior court decisions may be appealed to the Court of Appeals.
  5. Court of Appeals decisions may be appealed to the Washington Supreme Court.
  6. Appeals to the SHB and courts are governed by RCW 90.58.180, RCW 43.21B.001, RCW 34.05 Part V, and WAC 461.08.
- B. All requests for review of any final permit decisions under chapter 90.58 RCW and WAC 173-27 are governed by the procedures established in RCW 90.58.180, WAC 461-08, and the rules of practice and procedure of the SHB.

## Section 7.13 Amendments to Permits

- A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP, and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.
- B. Revisions to permits shall be considered consistent with WAC 173-27-100.

## Section 7.14 Enforcement

- A. The SMA provides for a cooperative program between the Coalition and Ecology to implement and enforce the provisions of the SMA and this SMP. This Section provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, and orders to take corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290, 173-27-300, Ferry County Development Regulations Section 13.00, and the City of Republic Code Section XX. The enforcement means and penalties provided herein are not exclusive and may be taken or imposed in conjunction with, or in addition to, any other civil enforcement actions and civil penalties, injunctive or declaratory relief, criminal prosecution, actions to recover civil or criminal penalties, or any other

action or sanction authorized by this Section, or any other provision of the local government codes, or any other provision of state or federal law and regulation.

B. The Shoreline Administrator, with the assistance of the Coalition member attorney, shall have authority to commence and prosecute any enforcement action authorized by this Section. In determining the appropriate enforcement actions to be commenced and prosecuted, the Shoreline Administrator shall consider the following factors:

1. The nature of the violation
2. The extent of damage or potential future risk to the shoreline environment and its ecological functions or to the public health and safety, caused by or resulting from, whether directly or indirectly, the alleged violation
3. The existence of knowledge, intent, or malice on behalf of the violator
4. The economic benefit or advantage that accrued to the violator(s) as a result of the violation
5. The estimated actions and costs of providing adequate mitigation, restoration, rehabilitation, or enhancement to repair or minimize any substantial adverse impacts upon the shoreline environment and its ecological functions or the public health and safety

C. The Shoreline Administrator may commence and prosecute enforcement action jointly with Ecology. Pursuant to WAC 173-27, Ecology may initiate and prosecute enforcement action separate from the Shoreline Administrator.

## **Section 7.15 Cumulative Effects of Shoreline Developments**

A. The Coalition will periodically evaluate the effectiveness of this SMP update for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions. At the end of the first full year after adoption, and at the end of every other year thereafter, the Shoreline Administrator shall prepare a report documenting shoreline development permits, conditional permits, and variances, as applicable, including the exempt use activity approvals and the locations and effects of each by type and classifications. The report should include activities involving development, conservation, restoration, mitigation, and enforcement. It should summarize the net change of developments (including new development and decommissioning of structures and protected areas) using indicators such as linear length of stabilization and flood hazard structures, number of overwater structures (e.g., piers and docks), road length within shoreline, number of waterbody road crossings, number of levees/dikes, acres of impervious surface areas, acres of vegetation, acres of permanently protected areas, or areas with limited development. Compliance and enforcement activity will also be tracked.

- B. The Shoreline Administrator, will, to the extent feasible, coordinate with other Coalition member departments or adjacent jurisdictions to assess cumulative effects of shoreline development.

#### Section 7.16 Amendments to Shoreline Master Program

- A. Amendments to this SMP shall be processed as legislative decisions pursuant to WAC 173-26-110.
- B. Any locally approved amendments to this SMP will not become effective until approved by Ecology.

#### Section 7.17 Definitions

##### A. Definitions

1. "Accretion" means the natural buildup of shoreline through the gradual deposit of alluvium.
2. "Act" means the Washington State SMA, RCW 90.58.
3. "Additions" means improvements to an existing building or structure, the cost of which does not exceed 50% of the assessed value of the total structure or result in an increase greater than 25% of the building footprint (up to a maximum of 500 square feet) before the addition is started. Additions must share a common wall (one full side) with the original structure.
4. "Adjacent," for purposes of applying Section 5.00, Critical Areas, means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located in either of the following areas:
  - a. On-site immediately adjoining a critical area
  - b. A distance equal to or less than the required critical area buffer width and building setback
5. "Agricultural activities" means agricultural uses and practices including, but not limited to, producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program or the land is subject to a

conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Also see definition of "New Agricultural Activities" in SMP Section 7.17.

6. "Agricultural products" includes, but is not limited to, horticultural, viticultural, floricultural, and vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both animals and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.
7. "Agricultural equipment" includes, but is not limited to, the following used in agricultural operations:
  - a. Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; and water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains.
  - b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands.
  - c. Farm residences and associated equipment, lands, and facilities.
  - d. Roadside stands and on-farm markets for marketing fruit or vegetables.
8. Agricultural facilities. See "Agricultural equipment."
9. "Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local SMP pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this SMP, land converted to agricultural use is subject to compliance with the requirements of this SMP.
10. "Alteration," for purposes of applying Section 5.00, Critical Areas, means any human-induced change in an existing condition of a critical area or its buffer. Alterations include grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for stormwater management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value of critical areas.

- 1 11. "Amendment" means a revision, update, addition, deletion, and/or  
2 reenactment to an existing SMP.
- 3 12. "Applicant" means a person who files an application for a permit under  
4 this SMP and who is either the owner of the land on which that proposed  
5 activity would be located, a contract purchaser, or the authorized agent of  
6 such a person.
- 7 13. "Approval" means an official action by a local government legislative  
8 body agreeing to submit a proposed SMP or amendments to Ecology for  
9 review and official action pursuant to this chapter or an official action by  
10 Ecology to make a local government SMP effective, thereby incorporating  
11 the approved SMP or amendment into this SMP.
- 12 14. "Aquaculture" means the culture or farming of fish or other aquatic plants  
13 and animals.
- 14 15. "Aquifer recharge area" means an area through which precipitation and  
15 surface water infiltrate the soil and are transmitted through rocks and soil  
16 to create groundwater storage. They are also areas where an aquifer that is  
17 a source of drinking water is vulnerable to contamination that would affect  
18 the potability of water.
- 19 16. "Area of Project Review" means the area within shoreline jurisdiction  
20 surrounding and including one or more critical areas within which  
21 activities and developments are subject to the provisions of this SMP.
- 22 17. "Area of special flood hazard" means the land in the floodplain within a  
23 community subject to a 1% or greater chance of flooding in any given  
24 year. Designation on maps always includes the letters A or V.
- 25 18. "Assessed value" means assessed valuation shall be as established by the  
26 County assessor's office, unless otherwise provided by a market appraisal  
27 institute appraisal.
- 28 19. "Associated wetlands" are those wetlands that are in proximity to and  
29 either influence or are influenced by a stream subject to the SMA.
- 30 20. "Average grade level" means the average of the natural or existing  
31 topography of the portion of the lot, parcel, or tract of real property which  
32 will be directly under the proposed building or structure. In the case of  
33 structures to be built over water, average grade level shall be the elevation  
34 of the OHWM. Calculation of the average grade level shall be made by  
35 averaging the ground elevations at the midpoint of all exterior walls of the  
36 proposed building or structure.

- 1 21. "Base flood" means a flood having a 1% chance of being equaled or  
2 exceeded in any given year. Also referred to as the "100-year flood."  
3 Designated on flood insurance rate maps with the letters A or V.
- 4 22. "Base flood elevation" means the water surface elevation of the base  
5 flood. It shall be referenced to the North American Vertical Datum of  
6 1988.
- 7 23. "Basement" means any area of a building having its floor subgrade (below  
8 ground level) on all sides.
- 9 24. "Benthic" means pertaining to the sub-aquatic bottom, including the  
10 sediment surface and some sub-surface layers.
- 11 25. "Best management practices (BMPs)" means conservation practices or  
12 systems of practice and management measures that perform the following  
13 actions:
- 14 a. Control soil loss and reduce water quality degradation caused by  
15 high concentrations of nutrients, animal waste, toxics, and  
16 sediment
- 17 b. Minimize adverse impacts on surface water and groundwater flow,  
18 circulation patterns, and the chemical, physical, and biological  
19 characteristics of wetlands
- 20 c. Protect trees and vegetation designated to be retained during and  
21 following site construction
- 22 d. Provide standards for proper use of chemical herbicides within  
23 critical areas
- 24 26. "Biotechnical bank protection (or stabilization)" means any combination  
25 of techniques employing lithic (naturally occurring geological materials,  
26 including angular rock, cobbles, and other sediments), soils, woody debris,  
27 geotechnical fabrics, and native plant materials employed to stabilize,  
28 protect and/or reconstruct stream and riverbanks.
- 29 27. "Boating facilities" allowed in the Coalition include boat launches and  
30 upland boat storage, marinas, and other boat moorage structures or uses.  
31 For the purposes of this SMP, boating facilities excludes docks serving  
32 four or fewer single-family residences.
- 33 28. "Breakwater" means an offshore structure whose primary purpose is to  
34 protect harbors, moorages, and navigation activity from wave and wind  
35 action by creating stillwater areas along shore. A secondary purpose is to  
36 protect shorelines from wave-caused erosion. Breakwaters are generally

built parallel to shore, may or may not be connected to land, and may be floating or stationary.

29. "Buffer, Critical Areas," means an area, which provides the margin of safety through protection of slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.
30. "City" means the City of Republic.
31. "Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. (The SMP regulatory CMZ is mapped and on file at the County.)
32. "Clearing" means the cutting, killing, grubbing, or removing of vegetation or other organic material by physical, mechanical, chemical, or any other similar means.
33. "Cluster" means a group of three or more significant trees with overlapping or touching crowns.
34. "Coalition" refers to Ferry County and the City of Republic.
35. "Community access" means a shoreline access available to a group or community (e.g., homeowners association) which may not be accessible to general public.
36. "Compensation project" means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include land acquisition, planning, construction plans, monitoring, and contingency actions.
37. "Compensatory mitigation" means types of mitigation used to replace project-induced critical areas and buffer losses or impacts.
38. "County" means Ferry County.

- 1 39. "Crime Prevention Through Environmental Design (CPTED)" is defined  
2 as a multi-disciplinary approach to deterring criminal behaviour through  
3 environmental design.
- 4 40. "Critical aquifer recharge area" means those areas that meet the following  
5 requirements:
- 6 a. Designated as "Wellhead Protection Areas" pursuant to  
7 WAC 246-290-135(4) and the groundwater contribution area in  
8 WAC 246-291-100 (2)(e). Wellhead protection areas shall, for the  
9 purpose of this regulation, include the identified recharge areas  
10 associated with either Group A public water supply wells and those  
11 Group B wells with a wellhead protection plan filed with the  
12 Northeast Tri-County Health District.
- 13 b. Identified in the Soil Survey of Ferry County Coalition as having  
14 high potential for aquifer recharge, including those soil types  
15 identified by the Shoreline Administrator.
- 16 41. "Crown" means the area of a tree containing leaf- or needle-bearing  
17 branches.
- 18 42. "Cultural and historic resources" means buildings, structures, sites,  
19 objects, and areas having archaeological, historic, cultural, or scientific  
20 value or significance.
- 21 43. "Development" means a use consisting of the construction or exterior  
22 alteration of structures; dredging; drilling; dumping; filling; removal of  
23 any sand, gravel, or minerals; bulk heading; driving of piling; placing of  
24 obstructions; or any project of a permanent or temporary nature, which  
25 interferes with the normal public use of the surface of the waters overlying  
26 lands subject to the act at any stage of water level.
- 27 44. "Development permit" means any permit issued by Ferry County or the  
28 City of Republic or other authorized agency, for construction, land use, or  
29 the alteration of land.
- 30 45. "Dock" means, as a general term, a structure, or group of structures that  
31 provides boat moorage or other uses. A dock may be made up of piers  
32 (which are structures on fixed piles) and floats (which float on the water's  
33 surface and are typically attached to piles so that they may rise and fall  
34 with changes in the water's elevation).
- 35 46. "Ecological functions" or "shoreline functions" means the work performed  
36 or role played by the physical, chemical, and biological processes and  
37 species that contribute to the maintenance of the aquatic and terrestrial  
38 environments that constitute the shoreline's natural ecosystem.

- 1           47.    "Ecosystem-wide processes" means the suite of naturally occurring  
2               physical and geologic processes of erosion, transport, and deposition and  
3               specific chemical processes that shape landforms within a specific  
4               shoreline ecosystem and determine both the types of habitat and the  
5               associated ecological functions.
- 6           48.    "Erosion" means the detachment and movement of soil or rock by water,  
7               wind, ice, or gravity.
- 8           49.    "Erosion hazard area" means those areas that, because of natural  
9               characteristics, including vegetative cover, soil texture, slope gradient,  
10              rainfall patterns, or human-induced changes to such characteristics, are  
11              vulnerable to erosion.
- 12          50.    "Feasible" means, for the purpose of this chapter, that an action, such as a  
13               development project, mitigation, or preservation requirement, meets all of  
14               the following conditions: a) the action can be accomplished with  
15               technologies and methods that have been used in the past in similar  
16               circumstances, or studies or tests have demonstrated in similar  
17               circumstances that such approaches are currently available and likely to  
18               achieve the intended results; b) the action provides a reasonable likelihood  
19               of achieving its intended purpose; and c) the action does not physically  
20               preclude achieving the project's primary intended legal use. In cases  
21               where these guidelines require certain actions, unless they are infeasible,  
22               the burden of proving infeasibility is on the applicant. In determining an  
23               action's infeasibility, the reviewing agency may weigh the action's  
24               relative public costs and public benefits, considered in the long-term time  
25               frames as required by RCW 90.58.020(3).
- 26          51.    "Federal Emergency Management Agency (FEMA)" means the agency  
27               that oversees the administration of the National Flood Insurance Program  
28               (44 CFR).
- 29          52.    "Fill" means the addition of soil, sand, rock, gravel, sediment, earth  
30               retaining structure, or other material to an area waterward of the OHWM,  
31               in wetlands or on shoreline areas in a manner that raises the elevation or  
32               creates dry land.
- 33          53.    "Fish and wildlife habitat conservation areas" means areas necessary for  
34               maintaining species in suitable habitats within their natural geographic  
35               distribution so that isolated subpopulations are not created as designated  
36               by WAC 365-190-080(5). "Fish and wildlife habitat conservation areas"  
37               do not include all attributes of shoreline natural character and ecological  
38               function as defined in the SMA and this SMP. "Fish and wildlife habitat  
39               conservation areas" include the following items:

- a. Areas within which state and federal endangered and threatened species exist, or state sensitive, candidate, and monitor species have a primary association.
  - b. Priority Habitat and Species Areas for endangered, threatened, sensitive, and candidate species identified by the WDFW.
  - c. Habitats and species of local importance that have been designated by the County at the time of application.
  - d. Naturally occurring ponds less than 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than 3 years duration, and landscape amenities. Naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.
  - e. Waters of the state as defined by WAC 222-16.
  - f. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
  - g. State natural area preserves and natural resources conservation areas.
54. "Flood" or "flooding" mean a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff or surface waters from any source.
  55. "Flood hazard area" means any area subject to inundation by the base flood or risk from channel migration, including, but not limited to, an aquatic area, wetland, or closed depression.
  56. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance and Mitigation Administration (FIMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to Ferry County Coalition.
  57. "Floodplain" is synonymous with 100-year floodplain and means that land area susceptible to inundation with a 1% chance of being equaled or exceeded in any given year. The limit of this area shall be based on flood ordinance regulation maps or a reasonable method, which meets the objectives of the act.

58. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot. Floodways identified on flood boundary and floodway maps become "regulatory floodways" within which encroachment of obstructions are prohibited.

59. "Fluvial geomorphology" refers to structure and dynamics of stream and river corridors within a watershed and provides an understanding of the natural formation and human alteration of a stream or river channel, including the floodplain and associated upland transitional zone.

60. "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, or removing forest biomass, including but not limited to:

- Activities in and over typed water;
- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees/logs both in-forest and in-water; and
- Brush control.

"Forest practice" shall not include: forest species seed orchard operations and intensive forest nursery operations; preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products, which cannot normally be expected to result in damage to forest soils, timber, or public resources.

61. "Functions" and "values," for purposes of applying SMP Section 5.00, Critical Areas, mean the beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, and recreation. Functions and values may be considered independently, with functions being measured indicators such as water quality, hydrologic functions, and habitat functions and values being non-measured indicators such as local importance, potential qualities, or recreational benefits.

62. "Geologically hazardous areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geologic events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Geologically Hazardous Areas include Erosion Hazards, Landslide Hazards, Mine Hazards, and Seismic Hazards, as defined herein and specified in SMP Section 5.5.

63. “Geomorphic” means of or relating to the form of the landscape and other natural features of the earth's surface.

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

65. “Grading” means stripping, cutting, filling, or stockpiling of land, including the land in its cut or filled condition to create new grade.

66. “Groin” means a barrier type of structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials.

67. “Ground cover” means all types of vegetation other than trees.

68. “Guidelines” means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of SMPs. Such standards shall also provide criteria for local governments and the department in developing and amending SMPs.

69. “Hazard areas” means areas designated as frequently flooded or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine-collapse, or other geologically hazardous conditions, including steep slopes.

70. “Hazardous substance(s)” is as follows:

- a. A hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act; any substance designated pursuant to Section

311(b)(2)(A) of the CWA; any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under Section 307(a) of the CWA; or any imminently hazardous chemical substance or mixture with respect to which the EPA has taken action pursuant to Section 7 of the Toxic Substances Control Act.

b. Hazardous substances that include any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibit any of the physical, chemical, or biological properties described in WAC 173-303-090, 173-303-102, or 173-303-103.

71. "High-intensity land use" means land uses consisting of commercial, urban, industrial, institutional, retail, residential on parcels less than 2.5 acres per unit, agricultural (dairies, nurseries, raising and harvesting crops, requiring annual tilling, and raising and maintaining animals), high-intensity recreation (golf courses and ball fields), and hobby farms.

72. "Hydraulic project approval (HPA)" means a permit issued by WDFW for modification to waters of the state in accordance with RCW 75.20.

73. "Impervious surface area" means a hard surface area, which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Impervious surface shall also include a hard surface area, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces, which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

74. "In-stream structures" function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including public and private facilities), flood control, irrigation, water supply (domestic and industrial), recreation, or fisheries enhancement.

75. "Invasive, non-native vegetation species" means the plants listed for Eastern Washington in Washington State Noxious Weed Board Publication # 820-264E (N/6/09) or the latest version of this document.

- 1           76.    "Landslide" means down slope movement of a mass of soil, rock, snow, or  
2                   ice, including, but not limited to, rock falls, slumps, mud flows, debris  
3                   flows, torrents, earth flows, and snow avalanches.
- 4           77.    "Landslide hazard areas" means those areas potentially subject to  
5                   landslides based upon a combination of geologic, topographic, and  
6                   hydrologic factors.
- 7           78.    "Littoral transport" means the transport of non-cohesive sediments such as  
8                   sand and silt, along the foreshore and the shoreface due to the action of the  
9                   breaking waves and the longshore current.
- 10          79.    "Low-intensity land use" includes forestry and open space (such as  
11                   passive recreation and natural resources preservation).
- 12          80.    "May" means the action is acceptable, provided it conforms to the  
13                   provisions of this chapter.
- 14          81.    "Mining" is the removal of naturally occurring materials from the earth for  
15                   economic use. The removal of sand and gravel from shoreline areas of  
16                   Washington usually results in erosion of land and silting of water. These  
17                   operations can create silt and kill bottom-living animals.
- 18          82.    "Mitigation sequencing" means the process of avoiding, reducing, or  
19                   compensating for the adverse environmental impact(s) of a proposal,  
20                   including the following actions, listed in the order of preference, the first  
21                   being the most preferred:
- 22                   a.    Avoiding the impact altogether by not taking a certain action or  
23                        parts of an action
- 24                   b.    Where impact on critical areas or their buffers will not be avoided,  
25                        demonstrating that the impact meets the criteria for granting a  
26                        Shoreline Variance or other administratively approved alteration
- 27                   c.    Minimizing impacts by limiting the degree or magnitude of the  
28                        action and its implementation by using appropriate technology or  
29                        by taking affirmative steps to avoid or reduce impacts
- 30                   d.    Rectifying the impact by repairing, rehabilitating, or restoring the  
31                        affected environment
- 32                   e.    Reducing or eliminating the impact over time by preservation and  
33                        maintenance operations during the life of the action
- 34                   f.    Compensating for the impact by replacing, enhancing, or providing  
35                        substitute resources or environments

g. Monitoring the impact and the compensation projects and taking appropriate corrective measures

83. "Mixed-use" or "Mixed-use development" means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design that includes a mix of water-oriented and non-water-oriented uses.

84. "Moderate-intensity land use" includes residential on parcels equal to or greater than 2.5 acres per 1 unit, moderate intensity open space (parks), and agriculture (moderate intensity land uses such as orchards and hay fields).

85. "Monitoring" means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

86. "Must" means a mandate; the action is required.

87. "Native vegetation" means plant species that are indigenous to the region.

88. "New agricultural activities" are activities that meet the definition of agricultural activities but are proposed on land not meeting the definition of "agricultural land" (above) at the adoption date of this SMP.

89. "New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this SMP.

90. "Nonconforming use or development" means a shoreline use or development, which was lawfully constructed or established prior to the effective date of the act or the applicable SMP, or amendments thereto, but which does not conform to present regulations or standards of the program.

91. "Non-water-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

92. "Normal maintenance" means those usual acts that are necessary to prevent a property's decline, lapse, or cessation from a lawfully established condition.

93. "Normal repair" means to restore a structure or 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 impacts on shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development, and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location, and external appearance, and the replacement does not cause substantial adverse impacts on shoreline resources or environment.

94. “Ordinary high water mark (OHWM)” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department. Where the OHWM cannot be found, it shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

95. “Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes and having less impact on critical areas.

96. “Primitive trail” means unimproved and unpaved but physically defined pathway for non-motorized movement.

97. “Priority habitat” means a habitat type with unique or significant value to one or more species. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as caves or snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife. An area classified and mapped as priority habitat must have one or more of the following attributes:

- a. Comparatively high fish or wildlife density
- b. Comparatively high fish or wildlife species diversity
- c. Fish spawning habitat
- d. Important wildlife habitat
- e. Important fish or wildlife seasonal range

- f. Important fish or wildlife movement corridor
- g. Rearing and foraging habitat
- h. Refugia habitat
- i. Limited availability
- j. High vulnerability to habitat alteration
- k. Unique or dependent species

98. "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the following criteria:

- a. Criterion 1. State-listed or state-proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State-proposed species are those fish and wildlife species that will be reviewed by the WDFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate.
- c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and non-native fish and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- d. Criterion 4. Species listed under the ESA as either proposed, threatened, or endangered.

99. "Provisions" means any definition, policy, goal, regulation, requirement, standard, authorization, prohibition, guideline criteria, or environment designations.

100. "Public Access" means physical and visual access. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the

shoreline from adjacent locations. Examples of public access are as follows:

- a. Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters.
- b. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, boat or canoe and kayak launching ramp, dock area, view platform, or other area serving as a means of physical approach to public waters.

101. "Public agency" means every city, county, state, or federal office; every officer; every institution, whether educational, correctional, or other; and every department, division, board, and commission that provides services or recommendations to the public or other such agencies.

102. "Public utility" means a public service corporation performing some public service subject to special governmental regulations or a governmental agency performing similar public services, either of which are paid for directly by the recipients thereof. Such services shall include water supply, electric power, gas, and transportation for persons and freight.

103. "Qualified professional" means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or shoreline subject. A qualified professional must have obtained a B.S., B.A., or equivalent degree or certification in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and 2 years of related work experience.

a. A qualified professional for wildlife, habitats, or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience in the State of Washington.

b. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the State of Washington.

c. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

d. A qualified professional with flood and CMZ expertise must be a hydrologist or fluvial geomorphologist.

- e. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.
- f. A qualified archaeologist must be a person qualified for addressing cultural and historic resources protection and preservation, with a degree in archaeology, anthropology, history, classics, or other germane disciplines with a specialization in archaeology and/or historic preservation and with a minimum of 2 years of experience in preparing cultural resource site assessments reports.

104. "Recreational development" means the modification of the natural or existing environment to accommodate commercial and public facilities designed and used to provide recreational opportunities to the public. Commercial recreational development should be consistent with commercial development defined herein.

105. "Research and Monitoring" includes activities associated with identifying collecting, monitoring, and evaluating scientific data and information to support water, fisheries and other ecological services management, restoration, and operational activities. Example activities that could be included under this category include installing and operating stream and water quality monitoring gages, collecting fisheries data using a trap or other devices, setting up and using equipment to collect sediment data, and other data collection activities that need to utilize the shoreline and waters of the state to meet public objectives.

106. "Residential development" entails one or more buildings, structures, lots, parcels or portions thereof that are designed, used, or intended to be used as a place of abode for human beings. These include single-family residences, residential subdivisions, short residential subdivisions, attached dwellings, and all accessory uses or structures normally associated with residential uses. Accessory residential uses include garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Hotels, motels, dormitories, or any other type of overnight or transient housing are excluded from the residential category and must be considered commercial uses depending on project characteristics.

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

108. "Riparian habitat" means areas adjacent to aquatic systems with flowing water that contains elements of aquatic and terrestrial ecosystems that mutually influence each other.
109. "Salmonid" means a member of the fish family Salmonidae, including: Chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).
110. "Salvage" means the removal of snags, down logs, windthrow, or dead and dying material, or recovery of submerged logs in the aquatic environment .
111. "Section 404 Permit" means a permit issued by USACE for the placement of dredge or fill material waterward of the OHWM or clearing in waters of the United States, including wetlands, in accordance with 33 United States Code (USC) Section 1344.
112. "Shall" means a mandate; the action must be done.
113. "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
114. "Shoreline Master Program" means the comprehensive use plan for a described area and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of an SMP for a county or city approved under RCW 90.58 shall be considered an element of the county or city's comprehensive plan. All other portions of the SMP for a county or city adopted under RCW 90.58, including use regulations, shall be considered a part of the county or city's development regulations.
115. "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
116. "Shoreline stabilization" means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes such as current, flood, wind, or wave action. These actions include structural and non-structural methods. Non-structural methods include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization.

117. "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this chapter, against taking the action.
118. "Significant adverse environmental impacts" (as used in SEPA) means a reasonable likelihood of more than a moderate adverse impact on environmental quality (WAC 197-11-794).
119. "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts on functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
120. "Silviculture" is the art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society on a sustainable basis.
121. "Site Assessment Reports" contain required information for a Critical Areas Report.
122. "Snag" means the remaining trunk of a dying, diseased, or dangerous tree that is reduced in height and stripped of all live branches.
123. "Special flood hazard area" means an area subject to a base or 100-year flood; areas of special flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-30, AE, A99, and AH.
124. "Species and habitats of local importance" means those species that may not be endangered, threatened, or critical from a state-wide perspective but are of local concern due to their population status, sensitivity to habitat manipulation, or other educational, cultural, or historic attributes. These species may be priority habitats, priority species, and those habitats and species identified in the critical areas code as having local importance (e.g., elk).
125. "Species, threatened and endangered" means those native species that are listed by WDFW pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered under the ESA (16 USC 1533).
126. "Start of construction" means and includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was

within 180 days of the permit issuance date. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

127. "Steep slopes" means those slopes (excluding County-approved geotechnical engineered slopes) 40% or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

128. "Stream" means any portion of a channel, bed, bank, or bottom waterward of the OHWM of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses that flow on an intermittent basis or fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

129. "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water.

130. "Substantially degrade" means to cause significant ecological impact.

131. "Topping" means the severing of main trunks or stems of vegetation at any place above 25% of the vegetation height.

132. "Transportation facilities" are those structures and developments that provide for the movement of people, goods, and services. These include

roads and highways, railroad facilities, bridges, parking facilities, bicycle paths, trails, and other related facilities.

133. "Trees" means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of 4 inches or more measured 24 inches above ground level.

134. "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

135. "Utility" means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications (including, but not limited to, telephone and cable), sewage, oil, and the like.

136. "Vegetation" means plant life growing below, at, and above the soil surface.

137. "Vegetation alteration" means any clearing, grading, cutting, topping, limbing, or pruning of vegetation.

138. "Water-dependent use" means a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations.

139. "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use or a use that provides for 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.

140. "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

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