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## CHAPTER 1: INTRODUCTION

### Background: Shoreline Management in Washington State

#### The Shoreline Management Act

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

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

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

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

#### Shoreline Master Programs

Water is one of Twisp's most important natural resources. Whether it is for domestic consumption, municipal use, irrigation, recreation or habitat for myriad fish and wildlife species, water and the many beneficial uses it supports are the basis for life and the economy in the community.

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

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

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

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

## Shorelines of the State

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

*Shorelines* include:

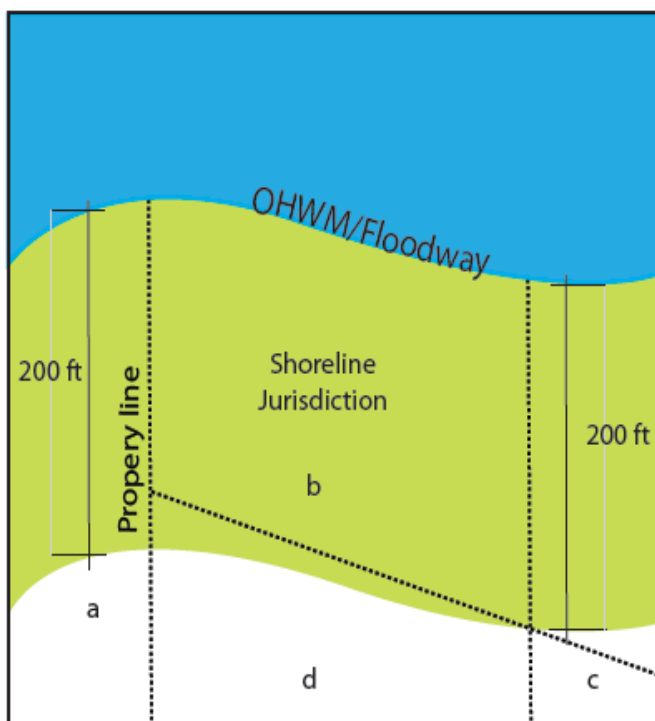
- All streams and associated shorelands, together with the lands underlying them, beginning at the point where mean annual flow is 20 cubic feet per second (cfs) or more
- All lakes over 20 acres in size
- Shorelands (also called Shoreline Jurisdiction see diagram), as follows:
  - Upland areas that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

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

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

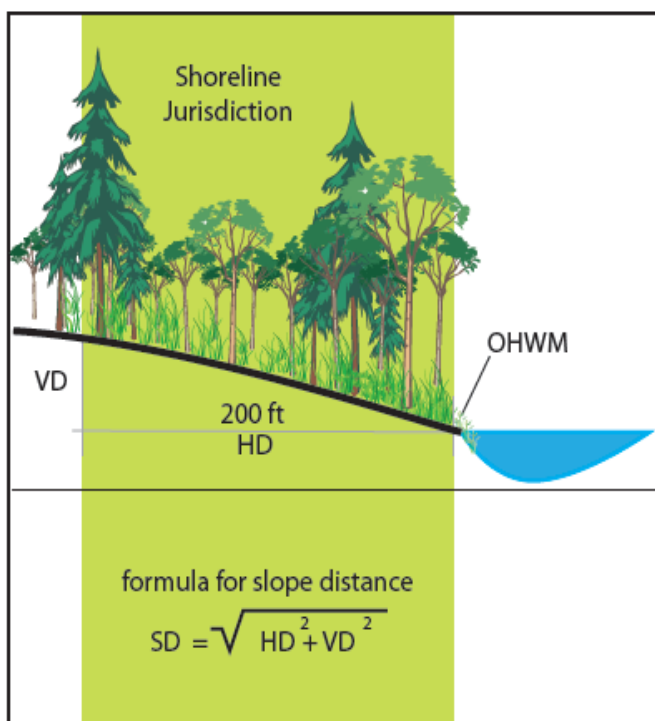
Within this SMP, you can learn more about which lakes and streams are considered Shorelines of the State in the places listed below:

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

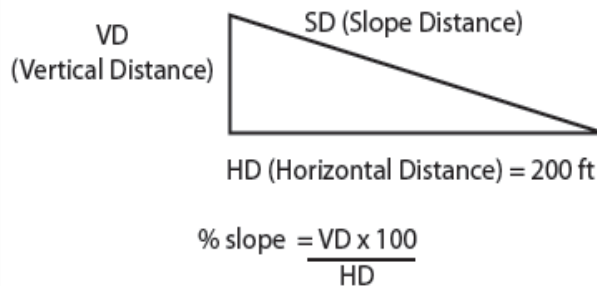


## Shoreline Jurisdiction

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



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



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

## Department of Ecology's Role

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

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

## SMP Guidelines

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

History and links. – Include link to history:

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

Ecology site with link, background:

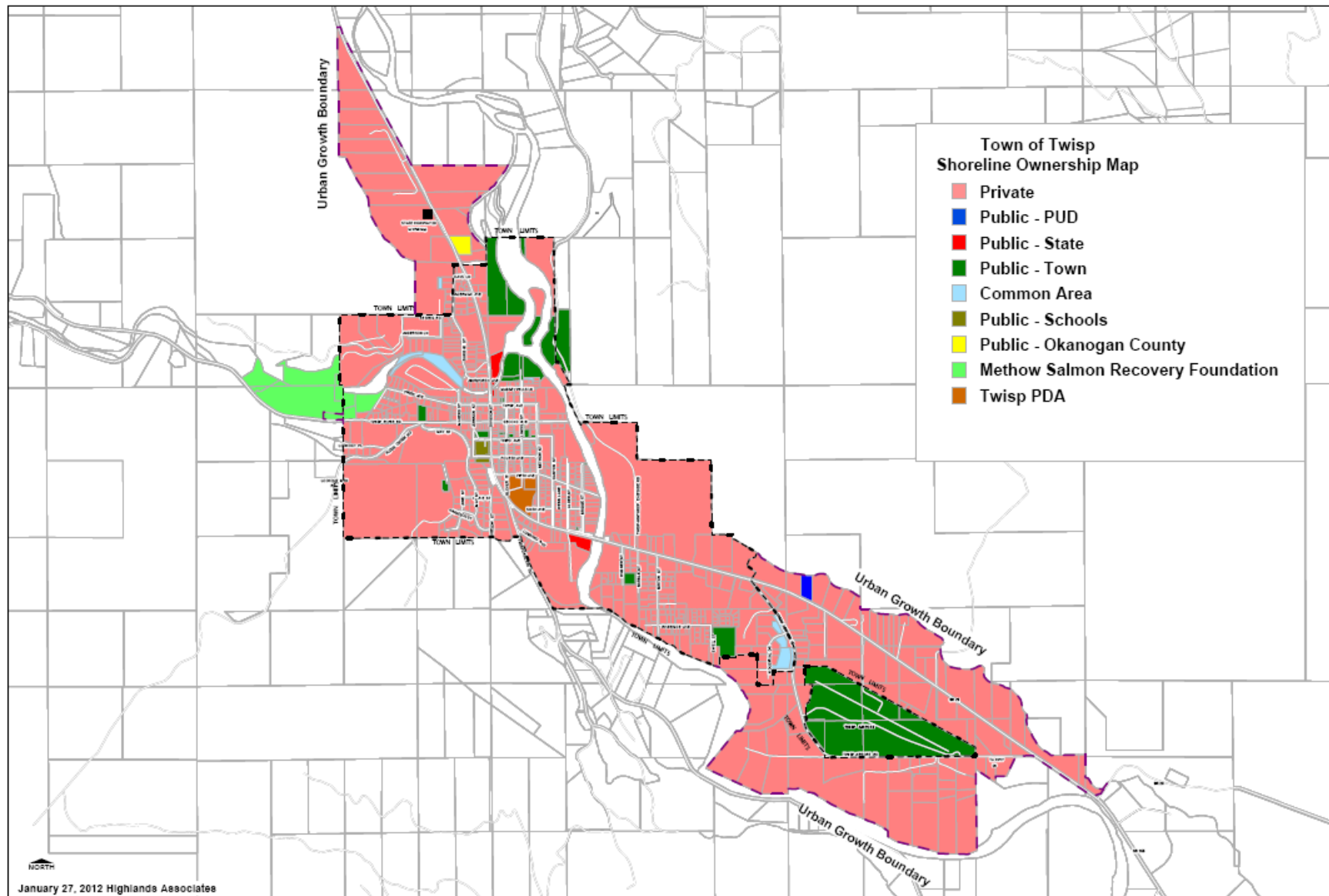
<http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>

State master program approval/amendment procedures and master program guidelines (WAC 173-26): <http://apps.leg.wa.gov/WAC/default.aspx?cite=173-26>.

## **Land Ownership in Twisp**

### **Public Lands**

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



## **The Okanogan County Cities and Towns Regional SMP**

This SMP was originally developed for the incorporated cities within Okanogan County. Twisp has tailored individual Goals and Policies (Chapter 6), Shoreline Designations (Chapter 7) and development regulations (Chapter 8) to address local needs and public input.

Adoption of this SMP by the Town will repeal their existing SMP and bring the community into compliance with the requirements of SMA . The conditions of the grant awarded for the updated SMP require adoption by the end of June 2010.

## **Jurisdiction**

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

## **Relationships to other plans**

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

Twisp’s critical area regulations will protect those critical areas that are located outside of the shoreline jurisdiction.

Technical information for the characterization of Twisp’s shorelines was undertaken as part of the regional SMP update and included information from the following plans:

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

## **General Policies and Concepts Used in this SMP**

### **Basic policies**

The SMA establishes three basic policies, described below.

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

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

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

Accommodate reasonable and appropriate uses:

“uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...”

### **3) *Promote public access***

“...the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.”

## **Concepts**

### **Property rights**

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

### **No net loss**

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

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

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
6. Monitoring the impact and the compensation projects and taking appropriate measures.

## Critical Areas

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

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

Critical areas within shoreline jurisdiction will have critical area protections within the Shoreline Master Program. Those areas outside shoreline jurisdiction will be regulated under the Critical Area Ordinance for the town of Twisp. Critical Areas regulations for shoreline areas can be found in Chapter 8.

## Channel Migration Zones

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

- Within incorporated municipalities and urban growth/future service areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.

- All areas separated from the active channel by existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone.

- Appendix G contains technical information that may be used to establish the Channel Migration Zone. The appendix includes maps from the Bureau of Reclamation report entitled “Geomorphology and Hydraulic modeling of the Middle Methow River from Winthrop to Twisp” which describes the geomorphic and hydraulic characteristics of the Middle Methow River channel between Twisp and Winthrop. The complete report can be accessed on the Bureau of Reclamation website link:

<http://www.usbr.gov/pn/programs/fcrps/thp/ucao/methow/m2geomorphology/m2finalreport.pdf>.

Appendix G also contains maps and text from the Channel Migration Study for the Methow study commissioned by Okanogan County.

### **Preferred uses**

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

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

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

### **Water-oriented uses**

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

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

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

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

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

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

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

Water enjoyment uses such as a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for

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

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

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

### **Exempt uses**

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

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

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

### **Ecological Function and Value**

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

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

- Ecological Function encompasses the ecological processes and interactions that occur within an ecological community. Ecological function includes:

- Provision of habitat for native biota;
- Provision of food and other resources for native biota;
- Maintenance of interactions between species (e.g., pollination, dispersal, mutualism, competition, predation)
- Cycling, filtering and retention of nutrients;
- Carbon storage or sequestration;
- Maintenance of soil processes;
- Maintenance of catchment scale hydrological and geochemical processes; and
- Maintenance of landscape scale ecological processes.

### ***Ecological Value***

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

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

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

### **Upland**

The portion of the landscape above the valley floor and/or any area that does not qualify as a

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

### **Upland Habitat**

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

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

## **SMP Contents**

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

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

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

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

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

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

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

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

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

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

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

### ***Shoreline Designations Chapter 7***

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

#### **Shoreline Designations**

High Intensity

Shoreline Residential

Shoreline Recreation

Urban Conservancy

Natural

Aquatic

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

### ***Maps***

Characterization maps and Designation Maps will be available from the Shoreline Administrator

for the town of Twisp and online at <http://www.townoftwisp.com>. The characterization map book is organized by watershed. The Twisp Shoreline Designation Map is located in Chapter 7 and attached to this report as Exhibit A.

To find out whether a particular use is allowed on a given parcel of land, the Shoreline Designation needs to be established by finding the parcel on shoreline designation map in Appendix D.1. Once the Designation has been determined, the use chart in Table 8.2 lists what activities are allowed and what permits will be required for a proposed development. Similarly, the development standards in Table 8.1 contain requirements such as bulk height, setbacks, and buffer widths.

### ***Restoration Plan Chapter 10***

Chapter 10 includes the restoration plan. Restoration is encouraged to achieve a net gain in ecological function. Areas with a high potential for restoration were identified as part of the inventory and analysis located in appendix A. Analysis units that had high resource value scores and low condition scores are considered candidates for restoration. Similarly, the Bureau of Reclamation study of the Middle Methow (<http://www.usbr.gov/pn/programs/fcrps/thp/ucao/methow/m2geomorphology/m2finalreport.pdf>) identifies areas for restoration as it pertains to river function and endangered salmon. The Chapter 10 Restoration plan shall take into consideration local and regional efforts currently underway for Salmon Recovery activities.

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

The requirements for permitting shoreline uses and developments is presented in administrative guidelines described in Chapter 11.

### ***Types of Shoreline Permits***

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

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

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

***Conditional Use Permits*** allow greater flexibility in applying use regulations of shoreline master

program. A CUP is needed if a proposed use is listed as a conditional use in a local government's shoreline regulations, *or* if the SMP does not address the use.

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

## **Applicability**

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

This SMP applies to all shorelines of the state in the town of Twisp.

Shorelines of the state include "Shorelines" and "Shorelines of Statewide Significance", as defined above under the heading "Shorelines of the State."

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

This SMP applies to new uses, new activities, and changes in use. Existing uses are generally "grandfathered"—that is, allowed to continue as legal uses—as long as they were legal at the time they began. For each existing use, except residential, that was legal when it began but would not be allowed as a new use under the current SMP is considered a legal nonconforming use. Residential structures and their appurtenant structures that were legally established and are used for a conforming use, but do not meet standards for the following are to be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density; and may include redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure consistent with this SMP, including the requirements for no net loss of shoreline ecological functions. For the purposes of this section, "appurtenant structures" means garages, sheds and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures. More information about changes in use, conforming and nonconforming uses, and how they are handled can be found in Chapter 11.

## **Shorelines within Cities and Towns**

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

All of the general goals, policies and regulations herein are applicable to the all cities and towns in Okanogan County and are at least the minimum required for compliance with the Shoreline

Management Act. Each city and town may add to or refine the use specific goals, policies and regulations as applicable to their jurisdiction, providing that the results comply with the SMA.

## **Permit exemptions**

The SMA exempts certain developments from the need to obtain a Substantial Development Permit (SDP). Activities exempted from the requirement to acquire a SDP must comply with all substantive policies and regulations of the local master program and be issued a written Shoreline Exemption Permit by the administrator of this SMP. A complete list of all uses is provided in Section 11.12B of this SMP and WAC 173-27-040. In general a SDP, is not required for the following uses within the shorelines of (insert jurisdiction)

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

## **CHAPTER 2: DEFINITIONS**

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

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

- 2.10 “Agricultural Products” includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;
- 2.11 “Aquaculture” means the culture or farming of food fish, shellfish, or other aquatic plants or animals. Aquaculture is an activity of statewide interest. It is a water-dependent use and, when consistent with control of pollution and prevention of damage to the environment and undertaken in conformance with the provisions of this SMP, is a preferred use of the water area.
- 2.12 “Animal feeding operation” or “AFO” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
- Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- 2.13 “Appurtenance” means development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and/or the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed the threshold established in local SEPA or building regulations, whichever is less, and which does not involve placement of fill in any wetland, floodway, floodplain or waterward of the ordinary high water mark.
- 2.14 “Associated Wetlands” is synonymous with "wetlands" or "wetland areas Wetlands that are in proximity to, lakes, rivers or streams that are subject to the SMA and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.
- 2.15 “Aquifer Recharge Area” Area with a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.
- 2.16 “Aquaculture” is the farming of aquatic organisms including fish, mollusks, crustaceans and aquatic plants. Farming implies some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators and so forth.
- 2.17 “Archaeological resource/site” means archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered, are located on Okanogan County shorelands and, including, but not limited to, submerged and submersible lands and the bed of the rivers within the

state's jurisdiction, that contains archaeological objects. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter. "Significant" is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
  - b. That are associated with the lives of significant persons in our past; or
  - c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
  - d. That has yielded or may be likely to yield, information important in history or prehistory.
- 2.18 "Average Grade Level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the ground elevations at the center of all exterior walls of the proposed building or structure.
- 2.19 "Bed and Breakfast" An owner occupied single family dwelling in which not more than two bedrooms are rented to the traveling public (tourists). For the purposes of this title, this use is not considered a commercial use. This use shall have the outward appearance of a single family residence and food service in accordance with WAC 246.215.180.
- 2.20 "Best Available Science" The current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925, for when used within this SMP, the most current, accurate, and complete scientific and technical information available WAC 173-26-201(2)(a)
- 2.21 "Best management practices" means (BMP's) means conservation practices or systems of practices and management measures that:
- a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment:
  - b. Minimize adverse impacts to surface water and ground water flow, circulation pattern, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats.
  - c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw

material.

- 2.22 “Boating facilities” Developments and uses that support access to shoreline waters for purposes of boating.
- 2.23 “Building” Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind and not including advertising signboards or fences.
- 2.24 “Buffer, Use” means an area that is contiguous to and protects a critical area that is required for the continued maintenance, functioning, and/or structural stability of a critical area.
- 2.25 “Buffer, Vegetation” means the vegetation area adjacent to a shoreline that separates and protects the shoreline aquatic area from adverse impacts associated with adjacent land uses.
- 2.26 “Buffer, Wetland” means the vegetation area adjacent to a wetland that separates and protects the wetland aquatic area from adverse impacts associated with adjacent land uses.
- 2.27 “Bulkhead” A structure erected generally parallel to and near the OHWM for the purpose of protecting adjacent uplands from waves or current action.
- 2.28 “Bulk storage” means non-portable storage of bulk products in fixed tanks.
- 2.29 “CAFO” Concentrated Agricultural Feeding Operation, as defined by the Code of Federal Regulations 122.23.
- 2.30 “Campgrounds” A development providing facilities for outdoor recreational activities, including structural improvements such as covered cooking areas, group facilities, self-contained travel trailer/motor home sites, tent sites, restroom and shower facilities, and laundry facilities for the convenience of temporary occupants. This definition includes camping clubs when developed in accordance with applicable state laws.
- 2.31 “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.
- 2.32 “Clearing” The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.
- 2.33 “Commercial use” Facilities used or established to provide goods, merchandise or services for compensation or exchange, excluding facilities for the growth, production, or storage of agricultural products.
- 2.34 “Community boating facilities” including docks, piers, ramps, marinas, etc...are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the facilities; and is responsible for the ownership and maintenance of the facilities. Where the

- shoreline is owned by a public entity and the entity has authorized the facilities, then the multiple upland property owners of a residential development would also be considered community boating facilities.
- 2.35 “Community joint-use recreational dock” means a dock intended for the common use of the residents of adjoining parcels or subdivision, shore subdivision, or community located on adjacent uplands. A community joint-use recreational dock shall not be a commercial endeavor and shall not for the purpose of serving the public.
- 2.36 “Critical Areas” Critical Areas include the following areas and ecosystems, as designated by the County, city, town or Tribe with jurisdiction: Wetlands; Areas with a critical recharging effect on aquifers used for potable water; aquatic, riparian, upland and wetland Fish and Wildlife habitat conservation areas; Frequently flooded areas; Channel Migration Zones; and Geologically hazardous areas.
- 2.37 “Critical Areas Report” is a report prepared by a qualified professional required by the agency with jurisdiction that inventories and analyses the development impacts of a proposed action on a critical area. Critical Area report requirements are found in Chapter 11 of this SMP.
- 2.38 “Cumulative Impacts” means the impact on the environment resulting from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of who undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- 2.39 “Density” An expression of the intensity of use of property, usually indicated in the following manner: For residential uses: Minimum acreage or square footage required for each residential unit; for non-residential uses: Maximum amount of use and/or floor area expressed as a percentage or fraction of the size of the lot.
- 2.40 “Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)
- 2.41 “Development regulations” means the controls placed on development or land uses by a local or tribal government in Okanogan County, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto.
- 2.42 “Dike” means an artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
- 2.43 “Dock” means all platform structures or anchored devices in or floating upon water

bodies to provide moorage for pleasure craft or landing for water-dependent recreation including but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.

- a. Private docks- over-water structures are constructed and utilized for private moorage by a single residential waterfront property owner; or an upland property owner adjacent to publicly owned shoreline where the public entity has authorized the placement of a private dock. Joint use docks - are constructed and utilized by two or more contiguous residential waterfront property owners. Joint use dock facilities may also serve one waterfront property owner and one or more contiguous upland property owners; or may consist of two or more upland property owners adjacent to publicly owned shoreline, where the public entity has authorized the placement of a joint use dock.
  - b. Community docks- are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner's association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the dock facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized dock facilities, the dock facilities for multiple upland property owners of a residential development would also be considered community dock facilities.
  - c. Public docks- are constructed and utilized for use by the general public, typically owned and managed by a public agency and may include a boat ramp.
- 2.44 "Dredge material disposal" means the disposal of material excavated waterward of the ordinary high watermark according to the DNR disposal procedures manual.
- 2.45 "Dredging" means the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or from wetlands.
- 2.46 "Dwelling, Multi-Family" means a building containing two or more dwelling units.
- 2.47 "Dwelling, Single-Family" means a detached building containing one dwelling unit.
- 2.48 "Dwelling unit" means a building or portion thereof designed exclusively for residential purposes on a permanent basis; to be used, rented, leased, or hired out to be occupied for living purposes having independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation. No motor home, travel trailer, tent trailer or other recreational vehicle shall be considered a dwelling unit.
- 2.49 "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201(2)(c).
- 2.50 "Ecological restoration and/or enhancement" is an "intentional activity that initiates, accelerates, or intended to recover ecosystem functions with respect to its health, integrity

and sustainability. The practice of ecological restoration and/or enhancement includes a wide scope of projects including, but not limited to: erosion control, reforestation, removal of non-native species and weeds, revegetation of disturbed areas, daylighting streams (e.g. culvert/pipe removal, bring an artificially underground stream to the surface), reintroduction of native species, as well as habitat and range improvement for targeted species.

- 2.51 “Ecologically intact” shorelines, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.
- 2.52 “Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
- 2.53 “Emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- 2.54 “Emergency construction” is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii)).
- 2.55 “Exempt, substantial development” means any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen dollars (\$5,718) or dollar value as amended by the State of Washington Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state, and any development which does meet the definition of substantial development contained herein. Note – exemption does not preclude compliance with the regulations contained herein, or provide an exemption from any other permit processes except as provided herein.
- 2.56 “Experimental aquaculture” means an aquaculture project that uses methods or technologies that are unprecedented or unproven in the State of Washington.
- 2.57 “Fair Market Value” of a development is the expected price at which the development

can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, dumping or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such a value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitting project.

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

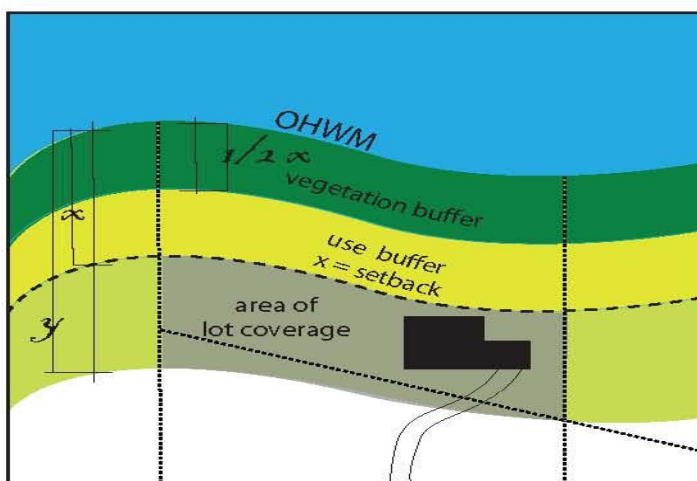
- propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi permanent anchorage/moorage facilities.
- 2.64 “Flood control works” means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.
- 2.65 “Floodplain” is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon the flood ordinance regulation maps of the local or tribal government with jurisdiction.
- 2.66 “Floodplain management” means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.
- 2.67 “Floodway” means that either (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.
- 2.68 “Forest Lands” means lands designated as forest lands, as required by the Growth Management Act, RCW 36.70A.170 and as regulated under RCW 76.09.
- 2.69 “Forest practices” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction, harvesting, final and intermediate, precommercial thinning, reforestation, fertilization, prevention and suppression of diseases and insects, salvage of trees, and brush control. "Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or 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.
- 2.70 “Frequently Flooded Area” means the floodplain, the future-flow floodplain, and those lands that provide important flood storage, conveyance and attenuation functions.
- 2.71 “Frontage” is the distance measured along the ordinary high water mark.

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

- 2.77 “Guest House” For the purposes of 17.14.115 (Okanogan County Code), small living unit accompanying the main residence permitted on a lot of minimum size or larger for the purpose of housing guests, friends, and relatives and having its own kitchen and toilet facilities. The total floor area of such a unit shall be a minimum of 500 square feet and not exceed 50% of the total area of the main residence. The main residence shall be occupied by the property owner.
- 2.78 “Guidelines” means the State of Washington’s adopted Shoreline Master Program Guidelines (WAC 173-26, as amended).
- 2.79 “Habitat” means the specific area or environment in which a particular type of plant or animal lives.
- 2.80 “Hard shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion including but not limited to, bulkheads, rip-rap, jetties, groins, breakwaters, and stone reinforcement.
- 2.81 “Height, building” is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, That temporary construction equipment is excluded in this calculation .
- 2.82 “Historic Site” means those sites that are eligible to be listed or are listed on the Washington Heritage Register, National Register of Historic Places, or any locally developed historic registry formally adopted by the responsible local government.
- 2.83 “Hotels and Motels” Establishments for housing the traveling public on an overnight or short term basis. Accessory restaurant and recreational facilities are usually available to non-guests as well as guests.
- 2.84 “Houseboat” A vessel, principally used as an over water residence. Houseboats are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring and the presence of adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an over-water residence means occupancy in a single location, for a period exceeding 30 days in any one calendar year. This definition includes liveaboard vessels.
- 2.85 “Industrial use” means a use including manufacturing, processing, warehousing, storage, distribution, shipping and other related uses.
- 2.84 “Inns, Lodges and Guest Ranches” Establishments for housing and providing either organized entertainment (both active and passive) or recreational opportunities for stays, generally, several nights in duration. This type of facility either provides all recreational opportunities on-site or as part of an organized or duly licensed and/or permitted recreational activity on public or private lands in the vicinity of the inn, lodge or guest ranch.
- 2.85 “In-stream Structure” means a structure placed by humans within a stream or river

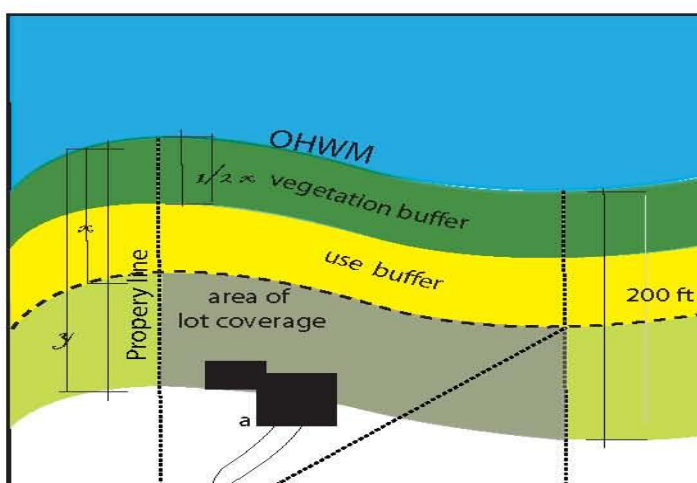
waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

- 2.86 “Landfill” means a disposal site or part of a site at which waste is placed in or on land and which is not a landspreading disposal facility, or as otherwise defined by Okanogan County, any of the cities and towns therein, or the Colville Confederated Tribes. The most stringent definition shall apply.
- 2.87 “Land Use, High Impact” “High Intensity Land Use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than 1 unit/acre), high intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), and hobby farms.
- 2.88 “Land Use, Low Impact” means land use that includes the following uses or activities, forestry (cutting of trees only), low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.), unpaved trails, utility corridor without a maintenance road and little or no vegetation management.
- 2.89 “Land Use Medium Impact” means land use that includes the following uses or activities, residential (1 unit/acre or less), moderate-intensity open space (parks with biking, jogging, etc.), conversion to moderate-intensity agriculture (orchards, hay fields, etc.), paved trails, building of logging roads, utility corridor or right-of-way shared by several utilities and including access/maintenance road.
- 2.90 “Large Woody Debris” or “LWD” means all wood greater than four inches (4”) in diameter naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.
- 2.91 “Litter container” means a container provided on public or private property for temporary disposal of wastepaper, used beverage or food containers, and other small articles of rubbish, trash, or garbage by users of the site. Every litter container shall be closed with a well-fitting lid or designed to reasonably prevent its contents from becoming litter.
- 2.92 “Local Government” means the town of Twisp or any county, incorporated city or town or Tribal corporation which contains within its boundaries any lands or waters subject to the Shoreline Management Act.
- 2.93 “Lot Coverage, shoreline” That portion of a lot which, when viewed directly from above, would be covered by building(s) and/or structure(s) and/or impervious surfaces. The portion of the lot covered by the roof projection or eaves beyond the wall of the building(s) and/or structure(s), is not included as lot coverage.



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

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



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

- 2.94 “Lot Width” The horizontal distance between the side lot lines measured at right angles to the line comprising the depth of the lot at a point midway between the front lot line and the rear lot line.
- 2.95 “Manure lagoon” means a waste treatment impoundment, in which manure is mixed with sufficient water to provide a high degree of dilution for the primary purpose of reducing pollution potential through biological activity.
- 2.96 “May” means an action is acceptable, provided it conforms to the provisions of this SMP.
- 2.97 “Must” means an action is required.
- 2.98 “Manufacturing, Heavy” Industrial enterprises and activities which possess potential nuisance or hazard components or place exceptional demands upon public facilities and services. Such facilities generally involve the manufacturing, assembly, fabrication and processing, bulk handling, storage, warehousing, and heavy trucking activity and normally require sites of larger size to accommodate these uses.
- 2.99 “Manufacturing, Light” A manufacturing use, in which goods are produced without using heavy machinery such as, machine loaders, foundry machinery, metal, presses, etc., and

without chemically processing materials. Light manufacturing activities include but are not limited to the following activities:

- a. Manufacture, assembly, finishing, and/or packaging of small items from component parts. Examples include but are not limited to pottery, clothing, assembly of clocks, electrical appliances, or medical equipment.
  - b. Production of items made from materials derived from plants or animals, including but not limited to leather, pre-milled wood, paper, wool or cork; or from textiles, semi-precious or precious metals or stones, or plastics.
  - c. Production or bottling of beverages for human consumption, including but not limited to beer, wine and soft drinks.
- 2.100 “Marina” means a facility which provides boat launching, storage, supplies and services for small pleasure craft. There are two basic types of Marinas; open type construction (floating breakwater and/or open pile work) and solid type construction (bulkhead and/or landfill).
- 2.101 “Mineral extraction” means the removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this Program.
- 2.102 “Mineral Resource Lands” means lands designated as mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.103 “Mineral prospecting” means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment.
- 2.104 “Mining” The act of extracting from the earth minerals and/or ores via open pit, shaft, leaching, hydraulic, sand and gravel removal, or other methods, except dredging. Note that mining activities are subject to zoning regulation and approval processes; however, prospecting and exploration activities that are conducted with minimal disturbance of the subject property are not considered mining and are not restricted by zoning. Surface mining operations are also regulated by Department of Natural Resources.
- 2.105 “Mitigation” means avoiding, minimizing, rectifying, reducing, compensating for, and/or monitoring an impact as defined in Washington State’s SEPA rules, 197-11-768 WAC.
- 2.106 “Mitigation plan” shall include a written report or authorization (by a state or federal agency) prepared by a qualified professional identifying environmental goals and objectives of the compensation proposed and including:
- a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

- b. A review of the most current, accurate, and complete scientific and technical information supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
  - c. An analysis of the likelihood of success of the compensation project.
  - d. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Title have been met.
  - e. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as: The proposed construction sequence, timing, and duration; Grading and excavation details; Erosion and sediment control features; A planting plan specifying plant species, quantities, locations, size, spacing, and density; and Measures to protect and maintain plants until established. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.
- 2.107 "Mixed use development" means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design. Mixed use developments must include a water dependent use(s) and provide a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration, except as provided for in WAC 173-26-241(3)(d).
- 2.108 "Monitoring" means evaluating the impacts of development on the environment (which may include biology, geology, hydrology, hydraulics, and other factors related to safety and shoreline ecological function) and determining how well any required mitigation measures are functioning through the monitoring period. Monitoring may also include collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features; and does also include gathering baseline data.
- 2.109 "Multi-family dwelling (residence)" means a single building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other in separate dwelling units on one lot of record and, for the purpose of this code, includes triplexes, fourplexes, apartment buildings, and residential condominiums.
- 2.110 "Municipal uses" are those in support of local government functions and services. For the purposes of this SMP, recreational uses and utility facilities are excluded.
- 2.111 "Natural Resource Lands" means lands designated as agricultural lands, forest lands, or mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.112 "Nonconforming Structure, shoreline" An existing structure built in conformance with SMP requirements in place at the time of construction or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any

amendment thereto.

- 2.113 “Nonconforming Use” An existing use allowed in conformance with SMP requirements in place at the time of initiation or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any amendment thereto.
- 2.114 “Non-structural shoreline stabilization” includes building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization, vegetation stabilization and bioengineered stabilization.
- 2.115 “Non-water-oriented use” means a use that is not a water-dependent, water-related, or water-enjoyment use.
- 2.116 “Office of Financial Management” means the Office of Financial Management of the State of Washington.
- 2.117 “Official Map of Shorelines” means all maps adopted as part of the Master Program delineating the geographic boundaries of all designated water bodies of Okanogan County, the incorporated municipalities, and the Indian Reservation therein, coming under the jurisdiction of the Shoreline Management Act of 1971.
- 2.118 “Open Space, Common” means land within or related to a development, not individually owned (undivided interest), which remains undeveloped (except for approved trails and accessory structures approved by the Dept. of Fish and Wildlife) and that is dedicated to one or more of the following purpose: Historical/architectural preservation and/or wildlife habitat and/or recreation.
- 2.119 “Open space, Individual Ownership” Land within or related to a development owned individually, which remains undeveloped (except for trails) and that is dedicated for use in the development and is retained or restored to its native state or used for agricultural or recreational purposes, e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/ architectural preservation significance or used as designated wildlife open space.
- 2.120 “Open Space Public” means any land which has been acquired, set aside, dedicated, designated or reserved for general public use or enjoyment.
- 2.121 “Open Space, Conservation” means land retained in an open or unimproved condition, which has been set aside, dedicated, designated, or reserved for fish and wildlife preservation or enhancement purposes. Mechanisms for preservation of Conservation Open Space include but are not limited to: Subdivision, Planned Development (PD), or Planned Destination Resort (PDR) process. Lands within this type of an open space dedication may include portions and combinations of forest, agricultural and grazing lands, priority fish and wildlife habitats, on-site watersheds, 100 year floodplains, county shorelines or shorelines of state-wide significance and riparian areas and wetlands. Land so designated shall not include areas of human impact and shall contain no structures or impervious surfaces other than those which are approved by the Administrator e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/architectural preservation significance or used as designated Conservation open space.

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

overlooks, viewing towers and other public sites or facilities.

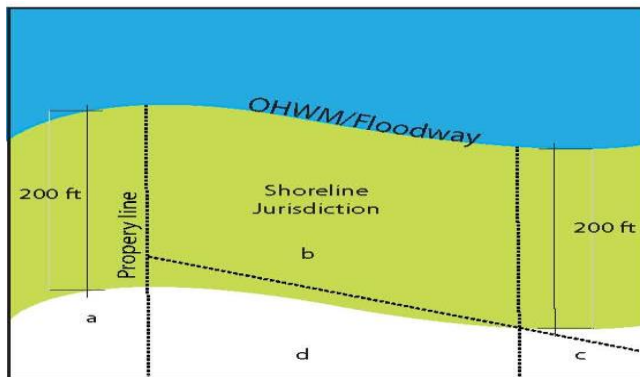
- 2.132 “Public Trust Doctrine” means a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state.
- 2.133 “Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional will have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and have at least two years of related work experience. A geologist must have a state license.
- 2.134 “Recreation, low-intensity” means recreation that does not require developed facilities other than unpaved trails and can be accommodated without change to the area or resource other than development of trails and placement of litter containers and directional and interpretive signs. Examples are hiking, shore fishing, and bicycling.
- 2.135 “Recreational development” “Recreational Development” means the modification of the natural or existing environment to accommodate recreation. This includes clearing land, earth modifications, structures and other facilities such as parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, wildlife enhancement (wildlife ponds are considered excavation), and other low intensity use outdoor recreation areas.
- 2.136 “Recreational uses” Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access are considered nonwater-oriented. For example, a recreation uses solely offering indoor activities would be considered nonwater-oriented.
- 2.137 “Recreational Vehicle (RV) Park” A tract of land developed with individual sites for rent and containing roads and utilities to accommodate recreational vehicles or tent campers for vacation or other similar short stay purposes.
- 2.138 “Residential development” means one or more buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, mobile homes, short and long divisions of land and other structures that serve to house people. **“Exempt Single Family Residential”**- Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family. **“Non-exempt Single Family”**- (e.g. seasonal or year round rentals), development of a residential single family unit not lived in by owner or his/her own family. **“Multi-family**

**Residential”**- Can include duplex, 3 or more residential units, apartments, townhomes and condominiums.

- 2.139 “Responsible Official” shall mean the duly elected Mayor or Town Clerk/Treasurer or their designee.
- 2.140 “Restore”, “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
- 2.141 “Riparian Area” means those transitional areas between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral (with existing riparian vegetation) streams, lakes, and estuarine-marine shorelines.
- 2.142 “Riprap” means broken stone or other hardening material placed along the shoreline of a lake, river, or stream to prevent erosion or provide stability.
- 2.143 “Sanitary landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a land spreading disposal facility.
- 2.144 “Seasonal” A temporary use the duration of which is related to an identifiable climatic, cultural, or recreational period. (i.e., summer, winter, fall, spring, Christmas, ski season).
- 2.145 “Setback” means the required minimum distance between the Ordinary High Water Mark and the outer-most vertical plane of any building, structure, device, fence, swimming pool, landscaped or graded area, or other improvement causing a disturbance to the natural landscape.
- 2.146 “Shoreline frontage” means the land measured in linear feet that lies adjacent to the lake, river, or stream subject to this program.
- 2.147 “Shoreline ecological function” see “Ecological function”
- 2.148 “Shoreline Jurisdiction” or “Shoreline Area” means:
- a. Type I Water: “shoreline jurisdiction” or “shoreland areas” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways (meaning floodways includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom); and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter.
  - b. All Other Waters within shoreline jurisdiction: shoreline jurisdiction or shoreline area

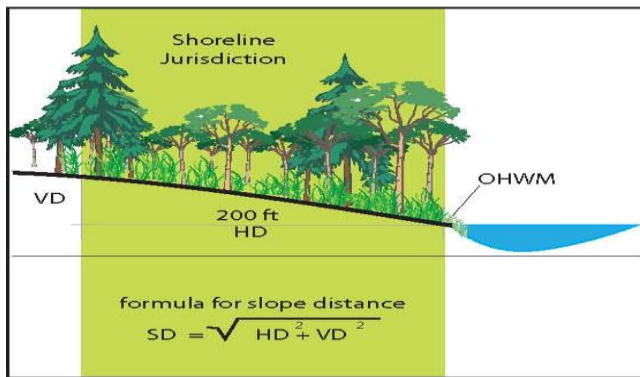
shall be defined that those lands lying 200 feet as measured on a horizontal plane from the ordinary high water mark of all water bodies subject to this SMP or the one-hundred year floodplain and any wetlands associated therewith, whichever is greater, as Shoreline Area subject to the provisions of this

- 2.149 “Shoreline Master Program” or “SMP” means the comprehensive use plan for the shoreline area of a jurisdiction subject to this title, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.;

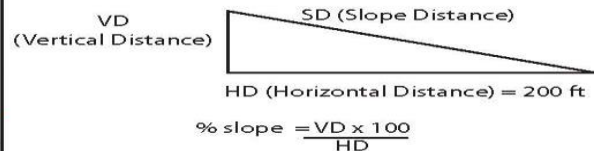


#### Shoreline Jurisdiction

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



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



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

- 2.150 “Shoreline Modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
- 2.151 “Shoreline permit” means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by the town of Twisp pursuant to RCW 90.58.
- 2.152 “Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

- a. Shorelines of statewide significance;
  - b. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;
- 2.153 “Shorelines of the State” are the total of all "shorelines" and "shorelines of state-wide significance" within the state
- 2.154 “Shorelines of State-wide Significance” in Okanogan County means:
- a. Those lakes, whether natural, artificial or a combination thereof with a surface acreage of one thousand acres or more measured from the ordinary high-water mark.
  - b. Those natural rivers or segments thereof that are downstream of a point where the mean annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers downstream from the first three hundred square miles of drainage area, whichever is longer.
  - c. Those wetlands associated with such water bodies.
- 2.155 “Shoreline of Tribal Significance” means *any Shoreline Area within the Colville Indian Reservation*.
- 2.156 “Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership, including any remaining portions of the parent parcel for any lot created through use of the applicable local subdivision code or ordinance.
- 2.157 “Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- 2.158 “Soft shoreline stabilization” means shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment.
- 2.159 “Solid Waste” means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.
- 2.160 “Special Event” Any event (excluding those events allowed through the festival permitting process) that happens for more than three (3) consecutive days per event and no more than twice (2) a year.

- 2.161 “Special Event Camping” Any ten (10) or more recreational vehicles, tents, or temporary structures designed for temporary habitation, or any combination thereof, limited to the duration of the special event (whether related to a special event or not) and one (1) week before and one (1) week after.
- 2.162 “Structural shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion, examples include, bulkheads, concrete walls, rip-rap, jetties, groins, breakwaters, stone reinforcement.
- 2.163 “Structure” Anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences or standard roof mounted antennas.
- 2.164 “Subdivision, Long” is the division and redivision of land into five (5) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, as further defined by the municipal or tribal government with jurisdiction.
- 2.165 “Substantial accessory use facilities” Substantial accessory including but not limited to rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas associated with recreational development.
- 2.166 “Substantial development” shall mean any development of which the total cost or fair market value exceeds five thousand seven hundred eighteen dollars (\$5,718) or dollar value as amended by the State of Washington Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. “Consumer price index” means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The uses and activities listed below shall not be considered substantial developments for the purpose of this chapter. All development, including the uses and activities listed below, is subject to Tribal Historic and Cultural Office regulations in accordance with the Tribal Cultural Artifacts Code.
- a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
  - b. Construction of the normal protective bulkhead common to single family residences;
  - c. Emergency construction necessary to protect property from damage by the elements;
  - d. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head

- gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- e. Construction or modification of navigational aids such as channel markers and anchor buoys;
  - f. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
  - g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
  - h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
  - i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
  - j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;
  - k. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
    - 1. The activity does not interfere with the normal public use of the surface waters;
    - 2. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
    - 3. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
  5. The activity is not subject to the permit requirements of RCW [90.58.550](#);
  1. The process of removing or controlling an aquatic noxious weed, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter [43.21C](#) RCW.
- 2.167 “Substantially degrade” means cause significant ecological impact.
- 2.168 “Temporary” means having a specific, short-term duration. (See Seasonal).
- 2.169 “Temporary sign” means a sign not intended to be permanently installed.
- 2.170 “Temporary Use” means a use that is limited in scope, duration, and frequency.
- 2.171 “Upland”, when used as an adjective, means outside of the shoreline area.
- 2.172 “Uplands” means those lands outside of the shoreline area and not under shoreline jurisdiction.
- 2.173 “Urban Growth Areas”, “Future Service Area” or “City Expansion Area” means a regional boundary, set in an attempt to control urban sprawl by encouraging that the area inside the boundary be used for higher density urban development and the area outside is used for lower density development. “Use” means the purpose for which land or a structure is primarily designed, arranged or intended, or for which it is primarily occupied or maintained.
- 2.174 “Variance” An adjustment in the application of the bulk, height and setback regulations of the shoreline master program to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the shoreline regulations of privileges commonly enjoyed by other properties in the same vicinity and shoreline designation. A variance shall be limited to only that adjustment necessary to remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same restrictions. Economic hardship is not grounds for a variance.
- 2.175 “Vegetation conservation” includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control, and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.
- 2.176 “Visual public access” see public access.
- 2.177 “Wetlands” means areas that are inundated or saturated by surface water or ground water

at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

- 2.178 “Water-dependent use” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include marinas, water intake systems and sewer outfalls.
- 2.179 “Water-enjoyment use” means a recreational or similar use facilitating public access to the shoreline as a primary character of the use; or, a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of use and which, through location, design and operation assures the public’s ability to enjoy physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline oriented space within the project must be devoted to the specific aspects of the use that foster enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed use commercial; PROVIDED that such uses conform to the above water-enjoyment requirements and the provisions of the Master Program.
- 2.180 “Water-oriented use” means any one or combination of water-dependent, water-related or water-enjoyment uses.
- 2.181 “Water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
- 2.182 “Water-related use” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers make its services less expensive and/or more convenient. Water-related uses may include fish hatcheries.

2.183 “Woody Debris” means all wood naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.

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

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

- 1) RCW 90.58, WAC 173-26, WAC 173-27, WAC 173-22
- 2) Black's Law Dictionary by Henry Campbell Black, 3rd Edition, Publisher's Editorial Staff, St. Paul, West Publishing Company 1933, and subsequent amendments thereto.
- 3) Webster's New Collegiate Dictionary, G. & C. Merriam Company, Springfield, Massachusetts, U.S.A., and subsequent amendments thereto.

## **CHAPTER 3:**

### **Public Participation**

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

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

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

A process to tailor and adopt the SMP is to be done by each respective jurisdiction and incorporated as part of their comprehensive plan.

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

The Shoreline Management Act, RCW 90.58.130 requires that local governments make reasonable efforts to inform the people of the state about the shoreline management program and actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs. The act also requires that the local government encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interest or responsibilities relating to the shorelines of the state. The WAC 173-26-090, 173-26-100, and 173-26-201(3)(b), offers additional guidance that local governments consult with and solicit comments from all persons, groups, agencies, and tribes interested or with jurisdiction or expertise in shorelines. Conduct at least one public

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

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

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

hearing to consider draft proposal and publish the notice of the hearing in the official county newspaper and comply with the State Environmental Policy Act.

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

The development of the Stakeholders Advisory Group consisted of a representative of Okanogan County, and of each city and town, a representative from the Colville Confederated Tribe, a representative from each of the watershed planning units in the County, a representative of each of the following interest groups: agriculture, natural resources, business and recreation, conservation and the environment. The role of the SAG members is to review draft documents and guide staff and consultants in developing an SMP that will be acceptable to stakeholders as well as meeting the statutory requirements of the County, cities, and towns.

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

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

### ***3.04 Outreach***

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

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

Work on the updated Shoreline Master Program (SMP) began in 2006 as a regional effort coordinated by Okanogan County. From 2006 through early 2010, the Twisp Planning Commission received briefings on the process and had opportunities to discuss the efforts at nearly every monthly meeting.

In early 2010, monthly meetings were hosted by Highlands Associates for local planners, planning commission members, and/or Town Council members at Omak City Hall to begin a chapter by chapter review of the Okanogan regional draft SMP. The purpose of these meetings were to twofold; 1) to respond the Department of Ecology's comments that were provided to the regional draft, and 2) amend the regional to reflect changes to suite needs of local towns and

cities rather than the rural emphasis the County draft embodied. Upon the completion of the Town's and Cities draft, the draft was handed over to each jurisdiction to adapt once more to their own local environment and development needs for each community.

Upon receipt of the Town's and Cities draft, the Twisp Planning Commission met numerous times throughout March and April to amend the plan. The Planning Commission opted to host public information sessions to elicit comment and participation from shoreline residents and property owners.

In May 2010, mailings were sent to all shoreline parcel owners to notify them of the local SMP update process and information sessions. The Planning Commission hosted two public information sessions on May 12<sup>th</sup> and 19<sup>th</sup> 2010 which resulted in modifications to the original draft presented to the public. The information session input concluded with a recommendation to Council for an intent to adopt at May 26, 2010 Planning Commission Meeting with approved changes. A public hearing at a regular Town Council meeting took place on Aug. 24<sup>th</sup>.

State Environmental Policy Act compliance was undertaken in June with the submission of the SEPA checklist. SEPA notice was placed in the Methow Valley News, online, and mailed to agencies with jurisdiction and/or interest in the SMP. Comments on the SEPA checklist were provided to Town Hall and changes to the draft SMP were incorporated as appropriate and presented to Town Council at the Aug. 24<sup>th</sup> hearing. The Town Council made a motion to send the draft back to the Planning Commission at the Aug. 24<sup>th</sup> hearing in order to fine tune changes and edits necessary to comply with DOE requirements and recommendations.

Town of Twisp Shoreline Master Program  
August 27, 2012

Overwater Structures		QuadScore			
			Score 1	Score 2	Quad Score
S MET 23	1	S MET 23	0.79	0.69	3
S MET 24	none	S MET 24	0.89	0.76	4
S TWI 01	2	S TWI 01	0.78	0.81	3
		Averages:	0.82	0.75	3

Setbacks					Subdivision Density	
	Avg	Max	Min	Std Dev		
S MET 23	294.90	1140.00	9.60	275.18	S MET 23	0.60
S MET 24	631.25	1730.00	60.00	366.30	S MET 24	0.21
S TWI 01	253.38	990.00	20.00	219.28	S TWI 01	0.42
Averages:	393.18	1286.67	29.87	286.92	Average:	0.41

**Narrative**

The shorelines in Twisp Town include those portions of the Twisp and Methow Rivers within and adjoining the UGA of Twisp. The Twisp River portion of this zone begins about 2 miles upstream from the Town and is generally unconstrained. As the Twisp River reaches Town, it is stabilized by a flood levee on the southern bank. Where the Methow and Twisp rivers meet, a dynamic alluvial fan from the Twisp inputs large gravels, boulders and cobbles, creating large bars during low water. This area is heavily used by town residents and visitors for fishing, swimming, and beach combing. Surrounding land uses are primarily residential, open space and parks, and a large amount of former industrial and agricultural land. The mainstem of the Methow River is channelized through town and reinforced for bridge abutments at Highway 20. A narrow riparian forest of cottonwoods lines the otherwise steep banks. Public access on the Methow is provided as Twisp park, at the end of E. 2nd Avenue and informal access for foot traffic is found at the Highway 20 bridge. Access on the Twisp is found at the Methow Salmon Recovery Foundation property and at the county road bridge just west of the Town limits.

**Recommendations**

## **CHAPTER 5:**

### **SHORELINES OF STATEWIDE SIGNIFICANCE**

#### **Introduction**

The Shoreline Management Act of 1971 (as amended) designated certain shoreline areas as shorelines of state-wide significance. Such shorelines are considered major resources that benefit all people in the state. Within Okanogan County, shorelines meeting the following definition are considered shorelines of state-wide significance.<sup>4</sup>

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

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

#### **5.01 Lakes**

There are no lakes of statewide significance in Twisp.

#### **5.02 Rivers**

There are two rivers of statewide significance affecting the town of Twisp. The rivers of statewide significance subject to the provisions of this regional SMP are:

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

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

#### **5.03 Order of Preference**

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

- A. Recognize and protect the state-wide interest over local interest.

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<sup>4</sup> "Shoreline management act of 1971." 90.58 RCW. Part 030.2.e.  
<<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58&full=true>>. Accessed September 15, 2008.

1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the regional master program and any amendments to state agencies, adjacent jurisdictions, citizen's advisory committees, local officials, and state-wide interest groups.
  2. Recognize and take into account state agencies' policies, programs, and recommendations in developing and administering use regulations and in approving shoreline permits.
  3. Solicit comments, opinions, and advice from individuals with expertise in ecology, geology, limnology, aquaculture, and other scientific fields relevant to shoreline management.
- B. Preserve the natural character of the shoreline.
1. Designate and administer shoreline environments and use regulations so as to minimize damage to the ecology of the shoreline as a result of man-made intrusions on the shoreline.
  2. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impacts on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity or undeveloped areas.
  3. Protect, preserve, and enhance the existing diversity of vegetation, habitat values, and wetlands associated with shoreline areas.
- C. Result in long-term over short-term benefits.
1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
  2. In general, preserve resources and values of shorelines for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
  3. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- D. Protect the resources and ecology of the shoreline.
1. Minimize development activity that would interfere with the natural functioning of the shoreline ecosystem, including but not limited to stability, drainage, aesthetic values, and water quality.
  2. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including migratory routes and areas used for spawning, nesting, rearing, and habitat.
  3. Public access to natural areas should be based on the ability of the area to support the use.
  4. Preserve especially valuable or environmentally-sensitive wetlands for use as open space, and encourage restoration of presently degraded wetland areas.
- E. Increase public access to publicly owned areas of the shoreline.
1. Where possible, develop paths and trails to shoreline areas and linear access along the shorelines. Associated parking should be upland of the permitted use.

2. Locate development landward of the ordinary high water mark so that access is enhanced.
- F. Increase recreational opportunities for the public on the shoreline.
1. Plan for and encourage development of facilities for recreational use of the shoreline.
- G. Reserve areas for lodging and related facilities on uplands with provisions for non-motorized access to the shoreline.

## CHAPTER 6:

### REGIONAL MASTER PROGRAM GOALS AND POLICIES

#### Introduction

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

#### Sections

- 6.01 [General Goals and Policies](#)
- 6.02 [Economic Development Goals and Policies](#)
- 6.03 [Public Access, Circulation and Recreation Goals and Policies](#)
- 6.04 [Conservation and Critical Areas Goals and Policies](#)
- 6.05 [Historic, Cultural, Scientific, and Educational Goals and Policies](#)

#### Use Specific Policies

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

## **6.01 General Goals and Policies**

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

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

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

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

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

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

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

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

**6.01 A. 4.** Encourage a diversity of shoreline uses, consistent with Okanogan County's and the cities and towns therein evolving economy and patterns of land use.

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

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

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

**6.01 B. 2.** In each local jurisdiction in which this City and Town Regional SMP applies, that jurisdiction's Comprehensive Plan and implementing regulations should be consistent with these shoreline regulations.

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

**6.01 B. 4.** Okanogan County and the cities of Omak and Okanogan recognize and honor the sovereignty of the Confederated Tribes of the Colville Reservation (CCT) and the tribal government's authority over lands within the exterior boundary of the Colville Indian Reservation.

**6.01 B. 5.** In administering this SMP, Okanogan County and the cities of Omak and Okanogan should defer to its Intergovernmental Land Use Planning Agreement with the Colville Tribes when addressing shoreline management issues on tribal trust lands outside the boundaries of the Colville Indian Reservation.

**6.01 B. 6.** In designating shoreline areas on state and federally-owned land, Okanogan County and the cities and towns therein should consider the uses planned, local and specific agency plans and potential leases for private uses and activities by the agency with management authority.

**6.01 B. 7.** Development and uses within shoreline areas should be conditioned to ensure that the proposed use or activity does not result in unanticipated or undesired impacts to other property owners (such as increased flood or geohazards to other property(ies), either upstream, downstream and across the stream), or result in loss of shoreline ecological functions.

**6.01 B. 8.** Shoreline uses and activities should be compatible with existing and planned uses on surrounding sites and in adjacent environments.

**6.01 B. 9.** Permitted uses and activities should be located, sited, designed, managed, and maintained to be compatible with the shoreline environment designation where they are located and be protective of shoreline ecological resources, including the following:

**6.01 B. 9. a.** Water quality;

**6.01 B. 9. b.** Visual, cultural and historic characteristics;

**6.01 B. 9. c.** Physical resources (including soils);

**6.01 B. 9. d.** Biological resources (including vegetative cover, wildlife, and aquatic life);

**6.01 B. 9. e.** Ecological processes and functions; and

**6.01 B. 9. f.** The natural character of the shoreline area.

**6.01 B. 10.** Any use or activity that cannot be designed, mitigated and/or managed to prevent a net loss of shoreline ecological functions, values and resources and that are not designed to protect the integrity of the shoreline environment should be prohibited.

**6.01 B. 11.** Shoreline regulations, including shoreline designations, should favor preservation of resources and values of shorelines for future generations over development that would irrevocably damage shoreline resources.

**6.01 B. 12.** Development standards, including setbacks, densities, height and bulk limits and/or minimum frontage standards, should be established to ensure that

new development results in no net loss of shoreline ecological functions. Criteria considered in establishing those standards should include, but not be limited to, the following:

**6.01 B. 12. a.** Biophysical limitations and ecological functions and values of the shoreline area;

**6.01 B. 12. b.** Surrounding development characteristics and land division pattern;

**6.01 B. 12. c.** Level of infrastructure and services available or planned; and

**6.01 B. 12. d.** Other comprehensive planning considerations.

**6.01 B. 13.** New uses and activities should be restricted to those that will not require extensive alteration of the land-water interface. Construction of shoreline stabilization works should be avoided. New uses and activities should be designed to preclude the need for such works. In those limited instances in which such works are found to be in the public interest and are allowed, impacts should be mitigated.

**6.01 B. 14.** The scenic and aesthetic quality of shorelines and vistas should be preserved to the greatest extent feasible.

**6.01 B. 15.** Natural plant communities within and bordering shorelines should be protected and maintained to ensure no net loss of shoreline ecological functions.

**6.01 B. 16.** Natural shoreline vegetation should be maintained and enhanced to reduce the hazard of bank failures and accelerated erosion. Vegetation removal that is likely to result in soil erosion severe enough to create the need for structural shoreline stabilization measures should be prohibited.

**6.01 B. 17.** Restoration of degraded shoreline vegetation, whether by natural or manmade causes, should be encouraged wherever feasible.

**6.01 B. 18.** Non-structural and “soft” methods of shoreline stabilization, such as vegetation enhancement and bioengineering, are preferred to hardened structures to control the processes of erosion, sedimentation, and flooding. Along the shoreline, these methods can only be done to protect legally established, existing structures, development, utilities and other infrastructure (e.g. roads). The need for bank stabilization should show that the erosion/migration processes are beyond natural rates through geotechnical evaluation. Allowed shoreline stabilization structures should be designed as to not interfere with natural hydrologic and geomorphic processes.

**6.01 B. 19.** Removal of vegetation should be limited to the minimum necessary to reasonably accommodate the permitted use or activity.

**6.01 B. 20.** The physical and aesthetic qualities of the natural shoreline should be maintained and enhanced.

**6.01 B. 21.** Preference should be given to preserving and enhancing natural vegetation closest to the ordinary high water mark.

**6.01 B. 22.** Aquatic weed management should emphasize prevention as a first step in control and utilize science-based monitoring to determine eradication methods.

**6.01 B. 23.** Standards to ensure that new development does not result in a net loss of shoreline ecological functions or further degradation of shoreline values should be established for shoreline stabilization measures, vegetation conservation, and shoreline modifications (See Section 6.14).

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

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

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

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

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

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

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

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

**6.02 B. 5.** Non-water-oriented commercial uses shall be prohibited unless the use is part of a project that provides significant public benefit with respect SMA objectives or is physically separated from the shoreline by a public right of way or another property. Such projects should not unnecessarily impair or detract from the public's physical or visual access to the water. Conditional Use Permits may also provide for flexibility in regulation of shoreline development and redevelopment within the urban centers of the cities and towns in Okanogan County.



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

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

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

**6.03 A. 1.** Provide, protect, and enhance physical and visual public access to shoreline areas, consistent with the natural character, features, and resources of the shoreline, private property rights, and public safety.

**6.03 A. 2.** Provide for public and private active and passive recreational use of shoreline areas.

**6.03 A. 3.** A safe, reasonable, and adequate vehicular and pedestrian circulation and access system, designed to minimize adverse effects on shoreline resources and ecological function wherever practical.

**6.03 A. 4.** A multi-modal circulation and access system that, where practical, contributes to the functional and visual enhancement of shoreline resources.

**6.03 A. 5.** Preserve, create, or enhance open space and natural amenities associated with shorelines for the benefit of the public health and wellbeing which are often lost to waterfront development.

**6.03 A. 6.** Protect the rights of navigation.

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

**6.03 B. 1.** For the purpose of this Regional SMP, locally adopted comprehensive plans and any stand alone elements thereof (e.g. Okanogan County Outdoor Recreation Plan, Douglas PUD Recreation Management Plan, City of Omak Park and Recreation Plan) should be considered the official public access plans.

**6.03 B. 2.** Okanogan County's shoreline area public access systems (including those of the incorporated municipalities within the county) should include provisions for people with disabilities. While it may not be practical to provide specialized facilities at all access points, physical and visual access for people with disabilities should be distributed throughout the system and should provide a variety of opportunities representative of the opportunities available to able-bodied users.

**6.03 B. 3.** All developments, uses, and activities on or near the shoreline should, to the extent practical, not impair or detract from the public's physical or visual access to the water.

**6.03 B. 4.** Provision of public access should result in no net loss of shoreline ecological functions.

**6.03 B. 5.** Public access to the shorelines afforded by street ends, public utilities, and rights-of-way should be inventoried, preserved, maintained, and, where consistent with locally adopted access plans, enhanced.

**6.03 B. 6.** Public access facilities should be located and designed to provide for public safety and minimize potential impacts to private property and individual privacy. Where appropriate, there should be a physical separation or other means of clearly delineating public and private space to avoid unnecessary user conflict.

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

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

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

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

## **6.04 Fish and Wildlife Conservation and Critical Areas Goals and Policies**

Critical Areas Regulations are found in Appendix C of this SMP.

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

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

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

**6.04 A. 3.** Sustained yield of shoreline natural resources—such as fish, timber, groundwater, mineral resources, and agricultural products—consistent with preservation of ecological functions and protection of the public interest in shorelines of the state should be protected.

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

**6.04 B. 1.** Critical areas in the shoreline shall include wetlands; fish and wildlife conservation areas including critical fresh water habitats; geologically hazardous areas including seismic zones, channel migration zones, steep slopes prone to erosion, sloughing, landslide and the like; frequently flooded areas including flood hazard areas and the 100-year flood plain.

**6.04 B. 2.** Critical areas should be managed to protect against adverse effects to public health and safety and against any loss of shoreline ecological function, including adverse effects on the land, its vegetation and wildlife; and the water and its aquatic life.

**6.04 B. 3.** The most current scientific and technical information shall be used in the determination and protection of critical areas in shoreline areas. Twisp may use all relevant documents and studies, including and in addition to supporting materials for local critical areas regulations as well as consultation with agencies such as Dept. of Fish and Wildlife and Dept. of Ecology to support decisions and condition permits.

**6.04 B. 4.** Unique, rare, fragile, and scenic natural and man-made features or landscapes should be preserved and protected from shoreline development activities.

**6.04 B. 5.** Where shoreline impacts are mitigated, the type of mitigation that will have the least impact on shoreline ecological functions shall be preferred.

Mitigation measures are listed below in order of descending preference, and shall be considered in the following sequence:

7. Avoiding the impact altogether by not taking a certain action or parts of an action;
8. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
9. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
10. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
11. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
12. Monitoring the impact and taking appropriate corrective measures.

**6.04 B. 6.** The ecosystem-wide impacts of a large development, including the cumulative impacts of exempt uses and activities within the development over time, should be considered in approving, conditionally approving, or denying shoreline permits for multi-lot subdivisions and other large developments.

**6.04 B. 7.** The adverse impacts of shoreline uses and activities on ecological processes and functions should be mitigated during all phases of development—including but not limited to design, construction, management, and use.

**6.04 B. 8.** The local government with jurisdiction should require reasonable setbacks, buffers, and stormwater management systems for all shoreline development

**6.04 B. 9.** All runoff treatment measures for the purpose of maintaining and/or enhancing water quality should be conducted on-site and before shoreline development affects waters or shoreline ecological functions off-site.

**6.04 B. 10.** Development should comply with local stormwater management regulations or the Stormwater Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended), whichever will provide the greatest protection of shoreline functions.

**6.04 B. 11.** All development, including subdivision, shall create no net loss in ecological functions and values of shoreline resources or further degrade, impair, or damage critical areas therein.

#### **6.04 C. Geologically Hazardous Areas**

**6.04 C. 1.** Developments and uses that would substantially degrade or permanently deplete habitat or the physical or biological resources of the area or inhibit stream movement in channel migration zones should not be allowed. (Refer to the Channel Migration Zone Map, Appendix G). WAC 173-26-231(3)(b)(4th principle)

**6.04 C. 2.** New development or the creation of new lots that would cause foreseeable risk from geological conditions (e.g. slope, channel migration, erosion) to people or improvements during the life of the development should not be allowed. (WAC 173-26-221(2)(c)(ii)(B))

**6.04 C. 3.** Development on slopes greater than 30% shall be required to prepare a geo-technical report to ensure no increase in erosion potential from the development.

**6.04 C. 4.** Development near steep river banks (>15%) may be subject to wider buffer widths, vegetation standards, or greater setbacks to ensure no increase to erosion or landslide potential.

**6.04 C.4.** Development near steep river banks (>15%) may be subject to wider buffer widths, vegetation standards or greater setbacks to ensure no increase to erosion or landslide potential.

#### **6.04 D. Critical Fresh Water Habitat Protections**

**6.04 D. 1.** Effective river and stream management shall depend on 1) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and (2) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

**6.04 D. 2.** No activities, uses or developments shall impair the ecological functions associated with critical freshwater habitats of the Twisp and Methow Rivers and associated wetlands.

**6.04 D. 3.** Buffer requirements and vegetation conservation standards shall be established to protect water quality, floodplain processes, and riparian habitats.

**6.04 D. 4.** Where appropriate, integrate protection of critical freshwater habitat, protection with flood hazard reduction and other river and stream management provisions.

**6.04 D. 5.** Restoration projects that support freshwater and aquatic species recovery plans that require shoreline modifications shall be allowed through a statement of exemption so long as appropriate permitting through other state and federal agencies are followed. Flexibility for innovative restoration projects shall be encouraged. Incentives shall be considered through coordination with other state and federal agencies for shoreline developments that encourage restoration.

#### **6.04 E Flood Hazard Reduction (WAC 173-26-221(3)(a-c))**

**6.04 E. 1.** Non structural flood control measures shall be preferred over structural measures for flood control and include setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs.

**6.04 E. 2.** New structural flood hazard reduction measures, such as dikes, levees, revetments, floodwalls, channel realignment shall be avoided whenever possible and only be allowed through a Conditional Use Permit as well as be subject to review by the Upper Columbia Regional Salmon Recovery Board Technical Team.

**6.04 E. 3.** The elevation of structures consistent with the National Flood Insurance Program shall be allowed if it shown that the placement of the structure shall not interfere with normal flood water inundation and flows or result in no net loss of ecosystem function or ecosystem-wide processes.

**6.04 E. 4.** All floodplain development shall be consistent with the Town of Twisp Flood Damage Prevention Plan TMC 16.10., comprehensive plans and zoning ordinance.

**6.04 E. 5.** Flood hazard protection measures should assure that they do not result in a net loss of ecological functions associated with the rivers and streams and ecosystem-wide processes.

**6.04 E. 6.** Flood hazard reduction planning should be considered when implementing other plans such as storm water management, floodplain regulations, critical area ordinances and comprehensive plans.

**6.04 E. 7.** Floodplain projects should facilitate returning the river corridors to a more natural hydrological condition and recognize that flooding a natural, seasonal process.

**6.04 E. 8.** Decreasing flood hazards through removal of artificial restrictions to facilitate natural channel migration, restoration, and establishing off channel habitat and hydrologic connections shall be in coordination with the appropriate state and federal agencies.

## **6.04 F Wetlands**

The following policies apply to wetlands within shoreline areas:

**6.04 F. 1.** All wetlands must be categorized based on rarity, irreplaceability, or sensitivity to disturbance of a wetland and its function by a qualified professional using the Washington State Wetland Rating System for Eastern Washington prior to development occurring. When appropriate a wetland functional assessment may be required by the administrator.

**6.04 F. 2.** No activities, including but not limited to: removal of vegetation, excavation, grading, dredging of soil, sand, gravel, minerals, organic matter or material; dumping, discharging, or filling with any material; discharging of domestic, commercial, or industrial stormwater; draining flooding, or disturbing water levels, duration of inundation or water table; driving of pilings, placement of obstructions; construction, deconstruction or remodel of an existing structure; any alteration to physical, chemical, or biological characteristics of wetlands; or activities reducing the function required buffers

shall take place within 300 ft of a verified wetland without proper approval by the administrator of this SMP.

**6.04 F. 3.** Unless authorized by the Department of Ecology, the shoreline administrator shall require buffers that meet or exceed buffer widths based on the Department of Ecology recommendations for Buffer Alternative 3 in *Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands* (Publication No. 05-06008) (or amendments thereto).

**6.04 F. 4.** Wetland mitigation requirements shall be consistent with WAC 173-26-201 2.e.

**6.04 F. 5.** Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined infeasible.

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

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

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

**6.05 A. 2.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State Department of Archaeology and Historic Preservation (DAHP).

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

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

**6.05 B. 2.** Where permitted by law, sites containing archaeological, cultural, and historic resources should be identified to avoid damage to the resources and the delay and expense associated with discovery of resources during development. Where disclosure of the location of such sites is restricted, relevant authorities, including the CCT and the

DAHP should be notified of permit applications within 500' (five hundred feet) of known archaeological and historic resources.

**6.05 B. 3.** Development within 500' (five hundred feet) of an identified historic, cultural, or archaeological site should be inspected or evaluated by a profession archaeologist, in coordination with affected Indian tribes, and designed and operated to be compatible with continued protection of the historic, cultural, or archaeological resources.

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

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

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

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

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

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

## **SPECIFIC USE AND ACTIVITY POLICIES**

### **6.06 Agriculture**

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

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

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

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

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

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

### **6.07 Aquaculture**

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

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

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

**6.07 D.** Aquaculture methods and structures should be chosen to create the least impact on the visual and environmental qualities of the shorelines. In instances in which a choice of aquaculture methods is available, or where two or more incompatible aquaculture projects are proposed in the same area, preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts. In general:

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

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

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

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

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

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

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

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

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

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

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

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

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

## **6.08 Boating Facilities**

**6.08 A.** Boating facilities (docks, piers, ramps, marinas, etc...) should be located, designed, and operated to provide maximum feasible protection and enhancement of aquatic and terrestrial life including animals, fish, birds, plants, and their habitats and migratory routes. When plastics and other non-biodegradable materials are used, precautions should be taken to ensure their containment.

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

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

**6.08 D.** Public and community boating facilities are preferred over individual private or commercial facilities. Private boat launches should be prohibited.

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

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

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

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

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

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

**6.08 K.** Multiple use and expansions of existing docks should be encouraged over the addition and/or proliferation of new facilities. Joint-use facilities are preferred over new single-use docks. Dock projects should be encouraged to provide for public docking, launching, and recreational access.

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

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

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

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

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

## **6.09 Commercial Uses**

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

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

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

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

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

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

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

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

**6.09 I.** Commercial developments should include landscaping that will visually enhance the shoreline area and contribute to shoreline functions and values.

**6.09 J.** No development should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing. Commercial Uses in shoreline areas designated Natural should be prohibited.

## **6.10 Industrial Uses**

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

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

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

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

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

**6.10 C.** No industrial development should be allowed in wetlands or their buffers without following mitigation sequencing.

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

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

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

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

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

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

**6.10 I.** Industrial developments should include landscaping that will visually enhance the shoreline area and contribute to shoreline functions and values.

## **6.11 In-stream Uses or Structures**

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

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

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

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

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

## **6.12 Mining**

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

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

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

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

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

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

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

## **6.13 Municipal Uses**

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

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

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

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

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

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

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

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

## **6.14 Recreational Uses**

**6.14 A.** The location and design of shoreline recreational developments should be consistent with the comprehensive plan and recreation plan of the local government with jurisdiction.

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

**6.14 C.** A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs. However, facilities for recreational activities that do not benefit from a shoreline location should not locate in shoreline areas.

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

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

**6.14 F.** Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas. Removal of healthy native vegetation to enhance views should be discouraged.

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

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

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

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

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

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

**6.14 G. 6.** Trails and paths on steep slopes should be located, designed, and maintained to protect bank stability and comply with applicable Critical Areas regulations as found in Appendix C.

**6.14 G. 7.** No Recreational uses should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing.

## **6.15 Overwater Structures (Docks and Piers)**

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

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

**6.15 C.** Overwater structures shall only be placed on portions of the shorelines where the natural flows and velocities shall not be impeded by the structure and where the placement of the structure will not restrict the natural scour and depositional actions of the shoreline.

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

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

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

**6.15 G.** New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

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

## **6.16 Parking and Transportation**

Parking is the temporary storage of automobiles or other motorized vehicles. The policies that follow apply to all areas where vehicles are parked, including parking incidental to another permitted use.

**6.16 A.** Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking in shoreline areas should be located upland of the permitted use.

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

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

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

**6.16 E.** Circulation system planning should include systems for pedestrians, bicycle and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with this mater program.

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

## **6.17 Subdivision and Land Segregation**

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

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

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

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

**6.17 D.** Plats and subdivisions, including assessor assigned subdivisions, should prevent the need for new flood hazard reduction measures within the channel migration zone or

floodway that would cause significant impacts to the other properties or public improvements or a net loss of shoreline ecological functions.

## **6.18 Signs**

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

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

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

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

**6.18 E.** Lighting associated with signs should be stationary, non-blinking and non-revolving. Artificial lighting of signs should be directed away from adjacent properties and the water. Signs illuminated by up-lighting shall be shielded by a roof overhang or similar structure to protect the night sky.

**6.18 F.** Signs shall not be erected nor maintained upon trees, or drawn or painted upon rocks or other natural features.

## **6.19 Utilities and Accessory Utilities**

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

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

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

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

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

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

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

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

**6.19 H.** Accessory utilities should be designed and located in a manner that preserves the natural landscape and shoreline ecology and minimizes conflicts with present and planned land uses.

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

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

## **6.20 Residential Development**

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

**6.20 B.** Development of four or more residential units, whether single-family or multi-family, must provide for public access in the form of physical access and visual access unless it can be shown that public access is adequately provided for on public property within ¼

mile walking distance of the proposed development. Public access is considered adequately provided for if all the following criteria are met:

- 6.20 B. 1.** The access is it part of a locally adopted parks, recreation and or public access plan.
- 6.20 B. 2.** The general public has physical and visual access to access to the water
- 6.20 B. 3.** Additional use of the access does not pose additional public safety hazard.
- 6.20 B. 4.** The public access can accommodate anticipated additional uses and impacts as a result of the proposed residential development.
- 6.20 B. 5.** An existing public access area is provided for an applicant's deed or parcel declaration(s) legally recorded at the County records.

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

**6.20 D.** Residential development or mixed use developments shall be sited so as to prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

Regulations should be developed that should include standards for the creation of new residential lots through land division that accomplish the following:

- 6.20 D. 1.** Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
- 6.20 D. 2.** Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
- 6.20 D. 3.** Implement the provisions of WAC [173-26-211](#) and [173-26-221](#).

## **6.21 Shoreline Modifications**

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

policies and regulations related to docks and roads as well as those related to residential development.

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

**6.21 A. General**

**6.21 B. Clearing and Grading**

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

**6.21 D. Fill**

**6.21 E. Shoreline Stabilization**

**6.21 F. Shoreline Stabilization-Bulkheads**

**6.21 G. Breakwaters, Jetties, Groins and Weirs**

**6.21 H. Vegetation Conservation**

**6.21 I. Flood Hazard Reduction**

**6.21 A. General**

**6.21 A. 1.** The provisions of this section apply to all developments, uses and shoreline modifications within all shoreline areas.

**6.21 A. 2.** All shoreline modifications should be in support of an allowed shoreline use that is in conformance with the provisions of this master program.

**6.21 A. 3.** Shoreline modifications should cause as few environmental impacts as possible and should be limited in size and number.

**6.21 A. 4.** The type of shoreline and the surrounding environmental conditions should be considered in determining whether a proposed shoreline modification is appropriate.

**6.21 A. 5.** Projects that include shoreline modifications should contribute to enhancement of shoreline ecological functions, when possible.

**6.21 A. 6.** As shoreline modifications are allowed to occur, measures to protect and restore ecological functions should be implemented.

**6.21 A. 7.** Development, uses and modifications should plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

**6.21 A. 8.** Shoreline developments, uses and modifications should avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).

**6.21 A. 9.** Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to

those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

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

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

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

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

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

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

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

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

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

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

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, and/or other materials or debris from any water body or associated shoreline or wetland. Dredging is normally done for specific purposes such as constructing or maintaining canals, navigation channels, or marinas, for installing pipelines or cable crossings, or for dike or drainage system repair and maintenance. Dredge material disposal is the depositing of dredge materials on land or into water bodies for the purposes of either creating new lands or

disposing of the by-products of dredging. Dredge material disposal within shoreline jurisdiction is also subject to the filling policies later in this section.

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

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

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

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

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

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

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

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

## **6.21 D. Fill**

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

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

environmental restoration, beach nourishment or enhancement projects and uses that are consistent with this master program.

**6.21 D. 2.** Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface water drainage, or flood waters that would result in a hazard to adjacent life, property, or natural resource systems.

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

**6.21 D. 4.** The perimeter of any fill should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural-appearing and self-sustaining control methods are preferred over structural methods.

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

## **6.21 E. Shoreline Stabilization**

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

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

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

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

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

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

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

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

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

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

### **6.21 F. Shoreline Stabilization- Bulkheads**

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

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

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

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

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

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

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

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

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

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

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

## **6.21 H. Vegetation Conservation**

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

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

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

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

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

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

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

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

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

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

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

## **6.21 I. Flood Hazard Reduction**

Flood hazard management projects are those actions taken with the primary purpose of preventing or minimizing damage caused by flooding.

**6.21 I. 1.** Flood control works in shoreline areas shall be subject to the policies of this section and regulations in Chapter 8.

**6.21 I. 2.** Assure that flood protection measures result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes.

**6.21 I. 3.** New or expanding development or uses in the shoreline, including subdivisions of land, that would likely require structural flood control works within a river, channel migration zone, floodway or lakes should not be allowed.

**6.21 I. 4.** Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

**6.21 I. 5.** Where feasible, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features may include but not be limited to vegetated berms and vegetative stabilization, including brush matting and buffer strips and retention of existing trees, shrubs and grasses on banks.

**6.21 I. 6.** Flood control works should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained.

**6.21 I. 7.** Recognizing the large number of physical variables to be considered in properly locating and designing flood control works and the high probability that poorly located and inadequately designed works will fail and/or adversely affect properties and shoreline features, such works should be sited and designed consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, the Town of Twisp Comprehensive Flood hazard Management Plan and Appendix C Critical Areas.

**6.21 I. 8.** Non-structural and non-regulatory methods to protect, enhance and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works and structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

**6.21 I. 9.** In cooperation with other applicable agencies and persons, the jurisdictions should continue to develop and/or update long-term, comprehensive flood hazard management plans to prevent flood damage, maintain the natural hydraulic capacity of floodways and conserve limited resources such as fish habitat, water, soil and recreation and scenic areas.

**6.21 I. 10.** Planning and design of flood control works should be consistent with and incorporate elements from applicable watershed management, restoration plans and/or surface water management plans.

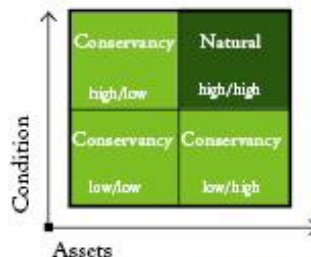
**6.21 I. 11.** Development and uses should comply with this SMP, local flood hazard reduction and/or flood damage prevention ordinances as found in Appendix C, whichever is more environmentally protective.

## Okanogan County SMP Environmental Designation Process

developed by Highlands Associates

### STEP 1: ASSIGN PRELIMINARY DESIGNATION

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

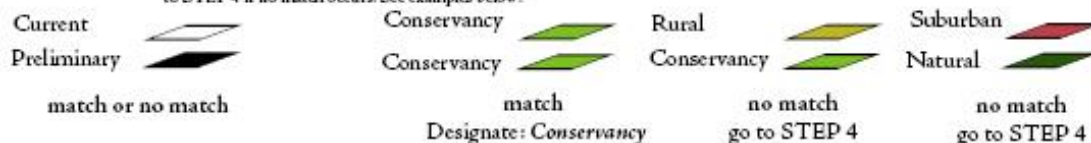


### STEP 2: ASSIGN NATIONAL FOREST PRELIMINARY DESIGNATIONS

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

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

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



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

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

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

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

## **CHAPTER 8**

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

#### **Introduction**

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

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

#### **Sections**

##### **8.01 General Regulations**

###### **A. General**

###### **B. Critical areas**

###### **1. General Rules and Regulations governing Critical Areas within Shorelines**

###### **2. Mitigation Sequencing**

###### **C. Flood Hazard Reduction – Appendix C Ecology Approved Comprehensive Flood Management Plan**

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

###### **A. Accessory Utilities**

###### **B. Agriculture**

###### **C. Aquaculture**

###### **D. Archaeological, Cultural, Educational, Historic and Scientific Resources**

###### **E. Boating Facilities**

###### **F. Commercial**

###### **G. Industrial**

###### **H. Mining**

###### **I. Municipal uses (includes all local governments)**

###### **J. Parking**

- K. Public Access**
- L. Utilities**
- M. Recreation**
- N. Residential**
- O. Signage**
- P. Transportation**

### **8.03 Shoreline Modification Regulations**

- A. General**
- B. Clearing and Grading**
- C. Dredging and Dredge Material Disposal**
- D. Fill**
- E. Shoreline Stabilization**
- F. Bulkhead**
- G. Vegetation Conservation**

## 8.01 General Regulations

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

### 8.01 A. General

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

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

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

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

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

**8.01 A. 6.** All shoreline uses and activities shall be located and designed to minimize or prevent the need for shoreline stabilization measures, flood protection works, filling, or substantial site re-grading. The use of car bodies, scraps of building materials, tires, asphalt or concrete from street work, or any discarded pieces of equipment, appliances or other

debris for the stabilization of shorelines is prohibited. See Shoreline Modification Regulations (Section 8.03), for specific shoreline stabilization regulations and standards.

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

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

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

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

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

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

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

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

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

**8.01 A. 16. Setbacks and buffers.**

**8.01 A. 16. a. Vegetation Conservation**

**8.01 A. 16. a. 1)** Restoration or enhancement of any shoreline area that has been

disturbed or degraded shall use plant materials from the recommended list (Appendix E) or other species approved by agencies or organizations operating within the jurisdiction, such as the departments of Ecology, County Extension, Fish and Wildlife or the Native Plant Society.

**8.01 A. 16. a. 2)** Stabilization of erosion-prone surfaces along shorelines shall primarily use vegetative, non-structural means and shall comply with the provisions of Section 8.03 E. More intensive measures may be permitted providing the project will result in no net loss in shoreline function.

**8.01 A. 16. a. 3)** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited. This does not preclude the removal of noxious weeds, provided a mitigation management plan is submitted and approved.

**8.01 A. 16. a. 4)** Weed abatement shall comply with all provisions of this SMP.

**8.01 A. 16. a. 5)** Non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted in compliance with View Corridor provisions of Section 8.02 K. 1. u.

**8.01 A. 16. a. 6)** Permits issued for projects in ecologically degraded areas shall include a condition that appropriate shoreline vegetation shall be planted or enhanced, to contribute to the restoration of ecological processes and functions.

**8.01 A. 16. a. 7)** If weather does not permit immediate restoration of disturbed areas, replanting shall be completed during the next planting season, and the soil shall be protected until replanting is complete.

**8.01 A. 16. a. 8)** Vegetation from the recommended list (Appendix E) or other species authorized by the local government with jurisdiction shall be used. Native plants are preferred. Plants that may compromise shoreline values shall be prohibited. If necessary, a temporary sterile cover crop (e.g., a sterile non-persistent member of the grass family such as sterile Triticale, barley, or oats) shall be planted to prevent erosion during the establishment period; said cover crop shall be maintained until the permanent vegetation is sufficiently established to prevent erosion.

**8.01 A. 16. a. 9)** Replanted areas shall be maintained until desired vegetation is well established (a minimum of three years). In the case of transportation, utility, or other capital facility construction, the agency or developer constructing the facility shall also be responsible for maintaining the vegetation until it is established.

#### **8.01 A. 16. b. Measurement**

**8.01 A. 16. b. 1)** All setbacks and Zone 1, Vegetation buffers<sup>5</sup> shall be measured on a horizontal plane from the ordinary-high-water-mark (OHWM), or on a horizontal plane from the Top of the Bank (TOB) as measurements designated in Table 8.1

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<sup>5</sup> - Vegetation buffers are required for all shoreline developments in all environments.

except where the regulatory floodway lies landward of the OHWM<sup>6</sup>, and as described below:

- i. High-Intensity (30) CR Shoreline Designations, Vegetation Buffer Zone 1 shall include the portion of land from the OHWM to the top of the bank plus the first 15' of the required 30' building setback.
- ii. High-Intensity (50) C1 Shoreline Designations, Vegetation Buffer Zone 1 shall include that 25' portion of the land from the OHWM.
- iii. Residential 1 (30) (High Bank) Designations, the Vegetation Buffer Zone 1 shall be the portion of land from the OHWM to the top of the bank or 15', whichever is greater.
- iv. Residential 2 (50) (low bank), Vegetation Buffer Zone 1 shall include that 25' portion of the land from the OHWM.
- v. Urban Conservancy Designation, the Vegetation Buffer Zone 1 shall include that 50' portion of land from the OHWM.
- vi. Natural Designation<sup>7</sup> – the Vegetation Buffer Zone 1 shall include that 200' portion of land from the OHWM.
- vii. Parallel Designations – For parallel Shoreline Designations (SD) the Zone 1 Vegetation Buffer shall be the larger of the two applicable vegetation buffer areas. In example, if the near water Zone 1 buffer is 30', but the parallel landward ED Zone 1 buffer is 50', the 50' Zone 1 Vegetation buffer would apply as measured from the OHWM.

**8.01 A. 16. b. 2)** Zone 2, Use buffers shall be measured on a horizontal plane from the landward side of the vegetation buffer or landward edge of the floodway, whichever is greater..

**8.01 A. 16. b. 3)** Wetland buffers shall be measured from the Ordinary High Water Mark or delineated edge-of the wetland.

**8.01 A. 16. c.** All buffers, lot frontage and lot coverage requirements shall be as set forth in Table 8.01 and Appendix C except as follows:

**8.01 A. 16. c. 1)** Standard shoreline setbacks and/or Zone 1 or 2 buffers and/or lot coverage may be reduced using procedures set up by Sections 8.01 A.16.e Buffer Width Averaging and by 8.01 A.16.f. Administrative buffer reduction.

**8.01A.16. d.** Shoreline buffers<sup>8</sup> in shoreline areas shall be comprised of a vegetation

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<sup>6</sup> - Town of Twisp Municipal Code Chapter 16.10.280 prohibits encroachments and all new construction but does provide for reconstruction and maintenance of existing structures provided said improvements do not surpass 50% of the market value of the structure. Where the regulatory floodway lies landward of the OHWM a distance greater than the setback for the specific shoreline designation (see Table 8.1), the floodway boundary shall be the minimum setback with additional buffer requirements dependent on a site analysis.

<sup>7</sup> - In the Natural Designation, the ZONE 1 buffer encompasses all of shoreline jurisdiction(200'), so the USE setback is equal to 0 (Zero), buffer averaging and buffer reduction are not allowed in the Natural Designation.

<sup>8</sup> -Riparian fish and wildlife buffer standards are required for critical areas that meet PH status. Shoreline buffers in

and use buffers as follows:

**8.01 A.16. d. 1) Zone 1 -Vegetation Buffer.** The area one-half the distance of the setback (setbacks are listed in Table 8.1), in all shoreline areas is designated as a Vegetation Buffer. The vegetation buffer serves as restrictive protection zone for all shoreline functions and values. In these areas, existing native vegetation or vegetation from the recommended list (Appendix E) must be maintained and protected, except as provided for in Public Access – View Corridor Provisions (Section 8.02 K. 1. u.) and Shoreline Modification Regulations - General (Section 8.03A), Clearing and Grading (Section 8.03 B) and Vegetation Conservation (Section 8.03 G) and Recreation (8.02 M)

**8.01A.16. d. 2) Zone 2 - Use Buffer.** The area between the Zone 1 Vegetation Buffer or the floodway, whichever is greater, and setback line (setbacks are listed in Table 8.1) in all shoreline areas is designated as Zone 2 Use Buffer. In these areas, removal of existing native vegetation shall be limited as provided in Table 8.1 and uses limited to low intensity recreation, agricultural, accessory residential uses and accessory water-dependent and accessory water-related commercial uses.

**8.01 A. 16. e. Buffer Width Averaging.** The total required shoreline buffer (Zone 1+ Zone 2) width may be modified by the Administrator for existing lots of record in place at the time of adoption of this Program, or legally created thereafter, by averaging buffer widths based on a critical areas report, mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant. Buffer width averaging shall only be allowed where the applicant demonstrates all of the following:

**8.01 A. 16. e. 1)** The project site and adjoining area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;

**8.01 A. 16. e. 2)** The width averaging shall not adversely affect the project site and adjoining area and buffer's functional value;

**8.01 A. 16. e. 3)** The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging unless a standard reduction is permitted through an administrative reduction as specified in Administrative Buffer Reduction (Section 8.01 A.16. f).

**8.01 A. 16. e. 4)** The minimum buffer width at its narrowest point shall not be less than seventy-five (75%) percent of the buffer width established under Table 8.01.

**8.01 A. 16. e. 5)** Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are only eligible for the provisions of this section if the modification shall not result in reduced buffer area.

**8.01 A. 16. f. Administrative Buffer Reduction.** The Administrator shall have the authority to reduce buffer widths established in Table 8.1 on a case-by-case basis; provided that the general standards for avoidance and minimization shall apply, based on a critical areas report, mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:

**8.01 A. 16. f. 1)** The buffer reduction shall not result in a net loss of functions of the habitat buffer.

**8.01 A. 16. f. 2)** The maximum buffer width reduction allowed shall not exceed twenty-five (25%) percent total required buffer established in Table 8.1.

**8.01 A. 16. f. 3)** The buffer width reduction is contingent upon the submittal and approval of a critical areas report, mitigation management plan and SEPA document in conformance with Sections 11.01 B. 3. d., 11.01 B. 3 h.

**8.01 A. 16. f. 4)** Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are only eligible for the provisions of this section if the modification shall not result in reduced buffer area.

**8.01 A. 16. f. 5)** In cases where there is less than 25' of existing riparian vegetation, the width of the buffers may be reduced, subject to the buffer Width Averaging or Administrative Buffer Reduction standards established above. To support a claim that the Buffer should be reduced, a planting plan shall be submitted in combination with a mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant. The administrator's decision may be based on, but is not limited to, photographs of existing site conditions, and opinions of qualified professionals. In no case shall the Zone 1 buffer be decreased to less than 10'.

**8.01 A. 16. g. Activities Exempt from Buffers and Setbacks:** The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations herein:

**8.01 A. 16. g. 1)** Water-Dependent Development: Those portions of approved water-dependent development that requires a location directly adjacent to the ordinary high water mark of streams, rivers, lakes, ponds, associated wetlands, and/or within their associated buffers.

**8.01 A. 16. g. 2)** Modifications Necessary for Agency Compliance or Court Compliance: Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or court, when otherwise consistent with the Shoreline Master Program, provided that the reviewing official determines that:

i. The facility cannot meet the dimensional standard and accomplish the state,

federal or court ordered modification necessary to bring it into compliance;

- ii. The facility's modification are located, designed, and constructed to meet specified required modification standards necessary while complying with mitigation sequencing, and minimizing damage to ecological function and values of critical area and or shoreline; and
- iii. The modification follows necessary provisions for non-conforming development and uses.

**8.01 A. 16. g. 3)** Shared Moorage: Shared moorages shall not be subject to side yard setbacks when located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

**8.01 A. 16. h Buffer Exemption Criteria:** As determined by the Administrator, for development proposed on sites separated from the shoreline by intervening, and lawfully created public roads, railroads, or an intervening parcel under separate ownership, the requirements of this code for a vegetation buffer may be waived. For the purposes of this section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:

**8.01 A. 16. h. 1)** Separate the subject upland property from the water body due to their width or depth; and

**8.01 A. 16. h. 2)** Substantially prevent or impair delivery of most ecological functions from the subject upland property to the water body.

**8.01 A. 16. h. 3)** Be greater than 30' in width, measured perpendicularly from the OHWM of the Shoreline; and

**8.01 A. 16. h. 4)** Be in separate ownership, has not been subdivided in the last 5 yrs and the applicant does not have a vested interest in the waterward intervening parcel.

**8.01 A. 16. h. 5)** Be developed; AND the Buffer Exemption shall not be allowed if the intervening parcel is not developed.

**8.01 A. 17.** All clearing and grading activities shall be limited to the minimum necessary for the allowed or permitted development and shall comply with the provisions of Tables 8.1 and 8.3 and the regulations in Section 8.02 K. 1. u., and Sections 8.03 A, B and G.

**8.01 A. 18.** The town of Twisp shall give preference to biological or mechanical means rather than herbicides or insecticides for weed and pest control in shoreline areas. When agricultural chemicals, fertilizers and other spray materials are used, provisions shall be made to minimize their entry into any body of water by following guidance found in Eastern Washington Stormwater manual and seeking guidance provided by WS Dept of Agriculture. Spraying over open water is prohibited except to control known risks to public health or as approved by the State for treatment of aquatic weeds. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

**8.01 A. 19.** All shoreline uses and activities shall comply with the Stormwater Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended). Specific requirements include, but are not limited to:

**8.01 A. 19. a)** Solid and liquid wastes, untreated effluents, oil, chemicals, and other hazardous materials shall not be allowed to enter any body of water or to be discharged onto land. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

**8.01 A. 19. b)** All shoreline uses and activities in all shoreline designations, both during construction and for the life of the project, shall use stormwater best management practices to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving water quality and shoreline ecological functions are not adversely affected. Such measures may include but are not limited to low impact development, dikes, catch basins, settling ponds, oil/water separators, grassy swales, interceptor drains, and landscaped buffers. All measures shall be adequately maintained to insure proper functioning over time. The *Stormwater Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, as amended) shall provide the preferred guidance for surface water runoff best management practices.

**8.01 A. 20.** All shoreline areas to be disturbed by transportation, utility projects in all shoreline designations shall be restored in compliance with an approved mitigation management plan and be subject to posting a reclamation bond. Vegetation from the recommended list (Appendix E) or other species authorized by the Town shall be used. Planting of non-native plant species shall be prohibited in Zone 1 buffer areas. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The agency or developer maintaining the facility shall also be responsible for maintaining the vegetation until it is established. See Section 8.03 G Vegetation Conservation for specific regulations and standards.

**8.01 A. 21.** All shoreline areas to be disturbed by residential, commercial, municipal, recreational, aquaculture, boating facilities, mining, parking or industrial development in all shoreline designations shall be restored in compliance with an approved mitigation management plan (if required) and be subject to posting a reclamation bond. Vegetation from the recommended list (Appendix E) or other species authorized by the Town shall be used. Planting of non-native plant species shall be prohibited within Zone 1 buffers. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The owner or manager of the use shall also be responsible for maintaining the vegetation until it is established. See Section 8.03 G Vegetation Conservation for specific regulations and standards.



## TABLE 8.1 SHORELINE DEVELOPMENT STANDARDS

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

Standards	Aquatic	Natural <sup>9</sup>	Shoreline Recreation	Urban Conservancy	Shoreline Residential - 1 (high bank)	Shoreline Residential - 2 (low bank)	High Intensity (CR)	High Intensity (CI)
<b>Zone 1 + 2 Combined Vegetation and Use Buffer Width and Setback<sup>7</sup></b>								
Non-Water Dependent or Oriented Uses and Activities	N/A	200'	80'	100'	30' OHWM <sup>10</sup>	50' OHWM	30' TOB <sup>11</sup>	50' OHWM'
Water-Oriented Uses and Activities	N/A	200'	30'	30'	30' OHWM	50' OHMW	30' TOB	50' OHWM
Water Dependent Uses and Activities <sup>12</sup>	N/A	200'	0'	0'	0'	0	0'	0'
<b>Zone 1 Vegetative Buffer Width<sup>13</sup></b>								
Non-Water Dependent or Oriented Uses and Activities	N/A	200'	40'	50'	15'	25'	15'	25'
Water-Oriented Uses and Activities	N/A	200'	15'	15'	15'	25	15'	25'
Water Dependent Uses and Activities	N/A	200'	0'	0	0'	0'	0'	0'
<b>Zone 1 Vegetation Buffer Allowed Alterations</b>								
% of Vegetation Buffer that may be altered for view corridor <sup>14</sup>	N/A	0%	20%	10%	25%	25%	30%	30%

<sup>9</sup> - In the Natural Designation, the ZONE 1 buffer encompasses all of shoreline jurisdiction (200'), so the USE setback is equal to 0 (Zero), buffer averaging and buffer reduction are not allowed in the Natural Designation. Zone 1 + Zone 2 Setback = 200'.

<sup>3</sup> & 4 High-bank, levee or high-bank rip rapped shoreline - the Zone 1 buffer area shall include areas from the OHWM to the top of the bank, or 15 feet whichever is greater. In no instance, shall a structure be located within 15' of the top of the bank. If the horizontal distance from the OHWM to the top of the bank exceeds 15', vegetation buffer requirements for Zone 1 will applied the entire width to the TOB. In these instances, Zone 2 buffer requirements will be applied to areas from the TOB to the setback. In instances where the 15' exceed the horizontal distance to the TOB, Zone 1 buffer requirements apply to the entire 15' atop the bank.

<sup>11</sup> See 3 above

<sup>12</sup> The setback may be reduced to 0' for those water-dependent uses (e.g. aquaculture, marinas, boat launches) that require location adjoining the water, but in all cases such a setback shall be limited to the smallest area possible.

<sup>13</sup> The Zone 1 Vegetation Buffer is 50% of the setback.

<sup>14</sup> Percent of shoreline that maybe altered is the percentage or 30', whichever is less

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Standards	Aquatic	Natural <sup>9</sup>	Shoreline Recreation	Urban Conservancy	Shoreline Residential - 1 (high bank)	Shoreline Residential - 2 (low bank)	High Intensity (CR)	High Intensity (CI)
<b>Zone 2 Use Buffer Width<sup>15</sup></b>								
Non-Water Dependent or Oriented Uses and Activities	N/A	N/A	40'	50'	15'	25'	15'	25'
Water-Oriented Uses and Activities	N/A	N/A	15'	15'	15'	25	15'	25'
Water Dependent Uses and Activities	N/A	N/A	0'	0	0'	0'	0'	0'
<b>Zone 2 Use Buffer Allowed Alterations</b>								
% of Use Buffer that may be altered in total for allowed uses and view corridors	N/A	N/A	40%	20%	50%	60%	60%	60%
<b>Dimensions/Lot Coverage Requirements</b>								
Minimum Lot size (acres) <sup>16</sup>	N/A	N/A	1	1	5000 sq ft	5,000 sq ft	2,500 sq ft	
Minimum Water Frontage <sup>17</sup>	N/A	N/A	100'	100'	50'	50'	50'	
Maximum lot Coverage	N/A	N/A	30%	40%	50%	50%		
Side Yard setbacks	N/A	N/A	10	10	5	0-10 <sup>18</sup>		
<b>Maximum Structure Height</b>								
Non-Water Oriented Uses and Activities	N/A	N/A	30'	30'	30'	30'	35'	30'
Water-Oriented Uses and Activities	N/A	N/A	25'	25'	30'	30'	35'	30'
Water Dependent Uses and Activities	10'	N/A	20'	20'	25'	25'	35'	30'

<sup>15</sup>- The area between the Vegetation Buffer and Setback intended for low impact uses and activities subject to standards

<sup>16</sup>- Minimum lot size shall conform to underlying zoning requirements unless the underlying zone minimum lot size is less than what is allowed in this SMP. Minimum lot size only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing legal non-conforming parcels.

<sup>17</sup>- Minimum water frontage only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing conforming parcels.

<sup>18</sup>- Zero (0') lot lines may be allowed through submittal of a development plan as part of a permit process (such as a building permit, PD, Long plat, binding site plan etc) as long as views of the shoreline from upland properties or right-of-ways are maintained and the cumulative side yard setbacks meet or exceed 20'.



## **8.01 B. Critical Areas**

### **8.01.B.1. General Rules and Regulations governing Critical Areas.**

The provisions of this section, along with the policies and regulations found within **Appendix C- Critical Areas Regulations**, shall apply to all critical areas within shoreline jurisdiction including wetlands, steep slopes and geo-hazard areas, riparian habitat areas, fish and wildlife habitat conservation areas, frequently flooded areas or any other area that meets the criteria for a critical area defined in Appendix C of this SMP. Any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written statement of exemption is required, shall be subject to the rules and regulations within Appendix C of this SMP.

**8.01 B. 1.a.** Unless otherwise stated, critical area buffers shall be protected and/or enhanced pursuant to this Chapter and Appendix C and all other applicable provisions of this Program.

**8.01 B. 1.b.** The hydrologic connection between water bodies, water courses and associated wetlands shall be protected.

**8.01 B. 1.c.** The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved.

**8.01 B. 2** Mitigation sequencing – applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts in the following prioritized offer:

**8.01 B. 2. a)** Avoiding the impact altogether by not taking a certain action or parts of an action;

**8.01 B. 2. b)** Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

**8.01 B. 2. c)** Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

**8.01 B. 2. d)** Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

**8.01 B. 2. e)** Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

**8.01 B. 2. f)** Monitoring the impact and the compensation projects and taking appropriate corrective measures.

## **8.01 C. Flood Hazard Prevention Projects**

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

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

**8.01 C. 3** The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway;

**8.01 C. 3. a.** Actions that protect or restore the ecosystem-wide processes or ecological functions;

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

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

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

**8.01 C. 3. e.** Repair and maintenance of an existing non-agricultural land use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;

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

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

**8.01 C. 4.** Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development; that nonstructural measures are not feasible; that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with Chapter 8, and WAC 173-26-221(5).

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

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

**8.01 C. 7.** Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigated significant ecological impacts, unavoidable conflict with the proposed use, or cost that is disproportionate and unreasonable to the total long-term cost of the development.

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

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

### **8.02 A. Accessory Utilities**

#### **8.02 A. 1. Accessory Utilities – General Regulations**

Accessory utilities are small-scale distribution facilities connected directly to the uses along the shoreline. Electrical, gas, telephone, cable, water and sewer lines serving a residential development or a commercial establishment are examples of utilities accessory to shoreline uses. Transmission facilities related to a hydropower generating facility are not accessory utilities—they are primary utility facilities.

**8.02 A. 1. a.** Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion.

**8.02 A. 1. b.** Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

**8.02 A. 1. c.** Accessory utilities shall be placed landward of the permitted use setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of

trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.

**8.02 A. 1. d.** Existing rights of way and corridors shall be used whenever possible to accommodate the location of utilities except where no other feasible alternative exists. Accessory utilities that require continued maintenance (i.e. no growth over septic systems, electrical transmission lines that require removal of undergrowth) shall not be placed in Zone 1 or 2 Buffers (between OHWM and structure setback).

**8.02 A. 1. e.** Accessory Utilities should not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

**8.02 A. 1. f.** Accessory Utilities should not obstruct views or vistas that may alter the visual character of the shoreline environment and its associated water body. Measures to conceal or shield accessory utilities in the shoreline from the water or to protect important view sheds or vistas from the shoreline may be required as conditions for building and development permits.

**8.02 A. 1. g.** Aesthetic measures such as material and earth tone color selections to mitigate visual impacts including, but not limited to, light pollution, glare, visual obstructions of views and vistas may be required by the administrator.

**8.02 A. 1. h.** Underground placement shall given preference over overhead or above ground utilities where feasible.

**8.02 A. 1. i.** Permanent stormwater management systems located in shoreline jurisdiction or serving property within the shoreline shall be designed using best management practices ensuring water quality treatment in compliance with the Stormwater Management Manual for Eastern Washington to prevent stormwater runoff from degrading or adding to the pollution of recipient waters or adjacent properties. Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and /or improvement plans.

## **8.02 A. 2. Accessory Utilities Designation Specific Requirements:**

### **8.02 A. 2. a. Aquatic**

**8.02 A. 2. a. 1)** Prohibited except those required to serve a permitted water dependent use.

### **8.02 A. 2. b. Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity**

**8.02 A. 2. b. 1.** Allowed, as permitted by primary use.

## **8.02 B. Agriculture**

### **8.02 B. 1. Agriculture General Use Regulations**

**8.02 B. 1. a.** New agricultural activities on lands that did not have agricultural activities in place at the time of adoption of this Master Program; conversion of agricultural lands or the development of non-agricultural activities on agricultural lands; and uses in support of agricultural activities are governed by the provisions of this Master Program and subject to the following criteria:

**8.02 B. 1. a. 1)** Non-Agricultural land<sup>19</sup> converted to an agricultural use shall preserve pre-existing riparian habitat and will have a buffer strip of native vegetation no less than the Zone 1 Vegetation Buffer setback for the shoreline designation where it is located. Said buffer will be established and maintained along shorelines to protect shoreline ecological functions. Disturbance of ground in Zone 2 of the Use Buffer is subject to Lot Coverage standards.

**8.02 B. 1. a. 2)** Uses and activities shall be consistent with regulations specific to the shoreline designation in which the site is located, including regulations in the tables of uses and development standards;

**8.02 B. 1. a. 3)** Uses and activities shall be located and designed to ensure no net loss of ecological functions;

**8.02 B. 1. a. 4)** Uses and activities shall not have a significant impact on other shoreline ecological function.

**8.02 B. 1. b.** Discharge of any manure storage facility into ground or surface water is prohibited.

**8.02 B. 1. c.** New feedlots, AFOS and CAFOS, or any animal feeding operation that is subject to a CAFO permit as defined by Department of Ecology in WAC 173-95A-020 and manure lagoons are prohibited within shoreline jurisdiction.

**8.02 B. 1. d.** Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi).

## **8.02 B. 2. Agriculture - Designation Specific Regulations**

### **8.02 B. 2. a. Aquatic, Natural**

**8.02 B. 2. a. 1)** Prohibited

### **8.02 B. 2. b. Shoreline Recreation, Shoreline Residential**

**8.02 B. 2. b. 1)** Preference shall be given to non-commercial, community and/or personal gardens that may be used for personal use or small-scale market gardens

**8.02 B. 2. b. 2)** Conversion of non-agricultural land to an agricultural use - Substantial Development Permit.

### **8.02 B. 2. c. Urban Conservancy and High Intensity**

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<sup>19</sup> - Non-agricultural lands are those lands that have not been subject to agriculture uses as defined in Chapter 2.

- 8.02 B. 2. c. 1)** Conversion of non-agricultural land to an agricultural use for commercial purposes shall require a Conditional Use Permit.

## **8.02 C. Aquaculture**

### **8.02 C. 1. Aquaculture - General Use Regulations**

**8.02 C. 1. a.** Aquaculture projects that involve minimal or no substrate modification shall be given preference over those that involve substantial modification. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site. The installation of submerged structures and floating structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible.

**8.02 C. 1. b.** Aquaculture projects that involve minimal or no impact on the aesthetic qualities of the shoreline shall be given preference over those that involve substantial impact. The applicant shall demonstrate that the aesthetic impact is the minimum necessary for feasible aquaculture operations at the site.

**8.02 C. 1. c.** Aquaculture projects that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions (including spreading disease to native aquatic life or establishing new nonnative species that cause significant ecological impacts), shall be prohibited.

**8.02 C. 1. d.** Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality. Herbicides and pesticides shall be used only in conformance with state and federal standard and to the minimum extent needed for the health of the aquaculture activity.

**8.02 C. 1. e.** Aquaculture projects that would significantly conflict with navigation or with established water-dependent uses shall be prohibited.

**8.02 C. 1. f.** Applications for aquaculture projects shall include all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to the following:

**8.02 C. 1. f. 1)** A site plan map including:

- i.** The perimeter of the proposed aquaculture operations area.
- ii.** Existing bathymetry depths based on the Ordinary High Water Mark (OHWM).
- iii.** Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (OHWM datum).
- iv.** Areas where specific substrate modification will take place or structures will be constructed or installed.

v. Access provisions.

vi. Location of storage or processing structures or facilities.

**8.02 C. 1. f. 2)** A baseline description of existing conditions, including best available information on:

i. Water quality

ii. Prevailing storm wind conditions

iii. Current flows

iv. Flushing rates

v. Areas of differing substrate composition.

vi. Areas of aquatic, and upland vegetation complexes.

vii. Existing shoreline or water uses and structures.

viii. Aquatic and benthic organisms.

ix. Assessment of aquatic species, and spawning and other lifecycle use of, or adjacent to, the site. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.

**8.02 C. 1. f. 3)** A detailed description of the project proposal including:

i. Species to be reared.

ii. Substrate modification or vegetation removal.

iii. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.

iv. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the local government with jurisdiction. Compounds with the least persistence shall be used. An annual report of antibiotic use shall be submitted to the Okanogan County Health District. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by Health District staff at all times.

v. Number of employees/workers necessary for the project, including average and peak employment.

- vi.** Methods of waste disposal and predator control.
- vii.** Methods to address pollutant loading, including biological oxygen demand (BOD).
- viii.** Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified in the *Shoreline Characterization* (Appendix A), including but not limited to watershed-level, indirect and cumulative effects.
- ix.** For floating culture facilities or other structures, the local government with jurisdiction may require a visual impact analysis. (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts.
- x.** Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.
- xi.** Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect Critical Areas.
- xii.** Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, underwater utilities, and scientific research. Existing public opportunities for gathering wild stock aquatic resources on public lands shall be addressed in any application for aquaculture on public bedlands. Compensation for loss of public access to public aquatic resources may be required.
- xiii.** Other pertinent information deemed necessary by the Administrator. Applications for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.
- xiv.** Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.
- xv.** Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impacts from noise, light, and/or glare on nearby residents, other sensitive uses or critical habitat.
- xvi.** Aquaculture facilities shall not introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated

and maintained to blend into their surroundings through the use of appropriate colors and materials.

**8.02 C. 1. g.** If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, unless otherwise provided for, the local government with jurisdiction shall require baseline and periodic operational monitoring by a consultant approved by said government, at the applicant's expense, which continue until adequate information is available to determine the success of the project and the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

**8.02 C. 1. h.** All aquaculture projects shall be submitted for review to local, state and federal agencies with expertise, including the Washington departments of Ecology and of Fish and Wildlife, and to the operators of affected FERC licensed hydro-projects. The local government with jurisdiction shall make available to those agencies the *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this SMP and shall request technical assistance in establishing any conditions that should be required of a project and in assessing the monitoring plan.

**8.02 C. 1. i.** New aquatic species that have not previously been cultivated in Washington State shall not be introduced without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health.

**8.02 C. 1. j.** Except for the sorting or culling of the cultured organism after harvest and the washing or removal of surface materials or organisms prior to or after harvest, no processing of any aquaculture product shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located landward of the ordinary high water mark.

**8.02 C. 1. k.** Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act, RCW Chapter 90.48. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

**8.02 C. 1. l.** Predator control shall not involve killing or harassment of birds or mammals. Approved controls include, but are not limited to, overhead netting for birds. The use of other non-lethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, as required.

**8.02 C. 1. m.** In the event of a significant fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Okanogan County Health District stating the cause of death and shall detail remedial action(s) to be implemented to

prevent reoccurrence. Permits shall include provisions for adjustment or termination of the project at any time if such an event cannot be remediated to the satisfaction of the Health District may be required.

**8.02 C. 1. n.** All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.

**8.02 C. 1. o.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribe(s) as part of the permit review process.

**8.02 C. 1. p.** Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the local government with jurisdiction shall require the posting of a bond commensurate with the cost of removal or repair. Said government may abate an abandoned or unsafe structure pursuant to the provisions of (TMC 8.05).

## **8.02 C. 2. Aquaculture - Designation Specific Requirements**

### **8.02 C. 2. a. Aquatic, Natural**

**8.02 C. 2. a. 1)** Conditional Use Permit

### **8.02 C. 2. b. Shoreline Recreation, Shoreline Residential, High Intensity**

**8.02 C. 2. b. 1)** All aquaculture located upland of the aquatic zone shall be permitted through a SDP only if in compliance with the other applicable sections of this SMP.

### **8.02 C. 2. c. Urban Conservancy**

**8.02 C. 2. c. 1)** Conditional Use Permit

## **8.02 D. Archaeological, Cultural, Educational, Historic and Scientific Resources**

### **8.02 D. 1. Archaeological, Cultural, Educational, Historic and Scientific Resources - General Use Regulations**

The following regulations apply to all shoreline uses and activities in all shoreline designations and on all sites within shoreline jurisdiction having archaeological, cultural, or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP) and/or with local jurisdictions, including the cities and towns within Okanogan County, the Colville Confederated Tribes (CCT), the Yakama Indian Nation (YIN) and affected Indian tribes and bands; or that have been or may be inadvertently uncovered.

**8.02 D. 1. a.** Archaeological sites are subject to the National Historic Preservation Act, as amended (16USC470), RCW 27.44 (Indian Graves and Records), RCW 27.53

(Archaeological Sites and Resources), and WAC 25-48 (Archaeological Excavation and Removal Permit).

**8.02 D. 1. b.** All Shorelines of the State and any other sites identified by the DAHP and/or the CCT or YIN as having a high probability of containing significant archaeological and historic resources shall be considered suspected historic, cultural, or archaeological resources.

**8.02 D. 1. c.** Known or suspected historic, cultural, and archaeological sites:

**8.02 D. 1. c. 1)** Notification of DAHP, or CCT and/or YIN and, if required, preparation of an evaluation and a report meeting the minimum reporting standards of the DAHP or Colville and/or Yakama Tribes (as appropriate). Such a report shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological, cultural, or historic resources, regardless of whether a shoreline permit or exemption is required.

**8.02 D. 1. c. 2)** Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction shall require an evaluation and a report meeting the minimum reporting standards of the DAHP, Colville and/or Yakama Tribes (as appropriate), prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site.

**i.** The fee for the services of the cultural resource management professional shall be paid by the applicant. The applicant shall submit a minimum of five (5) copies of the site assessment to the Administrator for distribution to the applicable parties for review.

**ii.** If the evaluation identifies the presence of significant historic, cultural, or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61. The fee for the services of the cultural resource management professional shall be paid by the applicant. In the preparation of such plans, the cultural resource management professional shall solicit comments from the DAHP, the History and Archeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable.

The applicant shall submit a minimum of five (5) copies of the CRMP to the Administrator for distribution to the applicable parties for review.

**iii.** The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic, cultural, and archaeological resources and appropriate mitigating measures. The Administrator shall consult with the DAHP, the History and Archeology Department of the CCT, and any affected Indian or First Nations tribes or bands prior to approval of the CRMP.

**iv.** The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic, cultural, and archaeological resource management concerns involved.

**8.02 D. 1. c. 3)** Upon receipt of a complete development permit application in an area of known or suspected historic, cultural, or archaeological resources, the local government with jurisdiction shall notify and request a recommendation from appropriate agencies, including the DAHP, the CCT, and any Indian or First Nations tribes or bands known to be affected. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever feasible. Notification shall include the following information:

- i.** The date of application, the date of notice of completion of the application, and the date of the notification;
- ii.** A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
- iii.** A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the local government with jurisdiction;
- iv.** The identification of other permits not included in the application, to the extent known by the local government with jurisdiction;
- v.** The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- vi.** Any other information determined appropriate by the local government with jurisdiction;
- vii.** A statement indicating those development regulations that will be used for project mitigation or a determination of consistency, if they have been identified at the time of notice;
- viii.** A statement of the limits of the comment period and the right of each agency to comment on the application within a thirty (30) day time period,

request a copy of the decision once made, and appeal a decision when allowed by law.

**8.02 D. 1. c. 4)** In granting shoreline permits or statements of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction may attach conditions to provide sufficient time and/or conditions for consultation with the DAHP, the CCT, and any affected Indian or First Nations tribes or bands, and to ensure that historic, cultural, and archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic, cultural, and archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the DAHP pursuant to RCW 27.44 and RCW 27.53 may apply in addition to the provisions of this SMP.

**8.02 D. 1. d. Inadvertent Discovery**

**8.02 D. 1. d. 1)** All shoreline permits shall contain provisions requiring that, whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development in shoreline areas, work on that portion of the development site shall be stopped immediately, the site secured, and the find reported as soon as possible to the Administrator.

**8.02 D. 1. d. 2)** Upon notification of such find, the property owner shall notify the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Notification to agencies shall include the information specified for notification under the heading “Known or suspected historic, cultural, and archaeological sites” above.

**8.02 D. 1. d. 3)** Upon notification of such find, the Administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the parties listed above, the Administrator may require that an immediate evaluation be conducted or may allow stopped work to resume. The evaluation shall meet the minimum reporting standards of the DAHP and shall be conducted by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, to determine the presence of significant historic, cultural, or archaeological resources. The fee for the services of the cultural resource management professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the evaluation and accompanying report to the Administrator for distribution to the applicable parties for review.

**8.02 D. 1. d. 4)** If an evaluation is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the evaluation is completed. The evaluation shall be distributed to the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or

bands known to be affected for a thirty (30) day review period or, in the case of inadvertent discovery of human remains, a thirty (30) day review period to determine the significance of the discovery. If the above listed agencies or governments have determined that the site is not significant, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, stopped work may resume.

**8.02 D. 1. d. 5)** Upon receipt of a positive determination of a site's significance, the Administrator may invoke the provisions for known sites, above, for a Cultural Resource Management Plan.

**8.02 D. 1. e.** The requirements of this section shall not apply where an applicant has obtained an approved Archeological Excavation and Removal permit from the DAHP pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.

## **8.02 D. 2. Archaeological, Cultural, Educational, Historic and Scientific Uses - Designation specific requirements**

**8.02 D. 2. a. Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential, High Intensity**

**8.02 D. 2. a. 1)** Exempt, if low intensity use and provided no significant ecological impact to the area will result.

## **8.02 E. Boating Facilities**

### **8.02 E. 1. Boating Facilities - General Regulations (including docks, marinas, launches, moorage)**

**8.02 E. 1. a.** When establishing regulation of motorized vs. non-motorized uses, hours and other limitations on boating use of waters in Okanogan County and the incorporated communities therein, the regulations shall be based, in part, on protection of shoreline functions and values.

**8.02 E. 1. b.** Mitigation for any adverse development impacts of boating facilities shall be required. On-site mitigation shall be preferred; however, in cases in which meaningful on-site mitigation is not feasible, off-site mitigation may be allowed. In such instances a mitigation management plan shall be required, and shall specify a suitable mitigation site. Adverse development impacts to adjacent properties shall not be allowed.

**8.02 E. 1. c.** New boating facilities shall be consistent with the applicable local comprehensive and recreation plans. When new sites are considered, sufficient evidence must be presented to show that existing public and commercial marinas, docks, and boat launches are inadequate and cannot be expanded to meet regional demand.

**8.02 E. 1. d.** For commercial and public boating facilities, the perimeter of parking and storage areas shall be landscaped to provide a visual and noise buffer between

adjoining dissimilar uses or scenic areas, using primarily native, self-sustaining vegetation from the recommended list (Appendix E). Landscaping along the waterward side shall also be required. The permit application submittal shall identify the size, location, and species of plants that will be used.

- 8.02 E. 1. e.** Boating facilities shall be located where no or minimal shoreline stabilization will be necessary and where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other maintenance activities.
- 8.02 E. 1. f.** When plastics and other non-biodegradable materials are used in boating facilities, precautions shall be taken to ensure their containment.
- 8.02 E. 1. g.** Boating facility design shall minimize interference with geohydraulic processes and disruption of existing shore forms.
- 8.02 E. 1. h.** Parking facilities serving a boating facility shall be located outside shoreline jurisdiction, or, if that is not feasible, shall be located landward of the Zone 2 - Use Buffer (Table 8.1).
- 8.02 E. 1. i.** Boating facilities, including boat lifts, and navigation aids shall be positioned so as not to be a hazard to navigation.
- 8.02 E. 1. j.** Boating facilities shall provide public access in accordance with Section 8.02 K Public Access.
- 8.02 E. 1. k.** Boating facilities shall be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials is encouraged.
- 8.02 E. 1. l.** The local government with jurisdiction shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington departments of Ecology, of Fish and Wildlife, and of Health; and shall make available to those agencies the *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this master program. The local government with jurisdiction shall consider the comments received from those agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.
- 8.02 E. 1. m.** Overwater structures shall only be placed on portions of the shorelines where the natural flows and velocities shall not be impeded by the structure and where the placement of the structure will not restrict the natural scour and depositional actions of the shoreline.
- 8.02 E. 1. n.** New pier or dock construction, excluding docks accessory to single-family residences, shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or

dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as a necessary justification for pier design, size and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

#### **8.02 E. 2. Marina-Specific Regulations**

- 8.02 E. 2. a.** Where allowed, marinas shall be permitted only as a conditional use.
- 8.02 E. 2. b.** Public access, both physical and visual, shall be required as part of all marinas.
- 8.02 E. 2. c.** Marinas shall be constructed in accordance with the provisions all applicable current state and local regulations.
- 8.02 E. 2. d.** Marinas or expanded constructed after the effective date of these regulations that provide moorage space for watercraft-shall provide sewage pump-out facilities.
- 8.02 E. 2. e.** Marinas shall be sited, designed, and built to minimize conflicts with agriculture.
- 8.02 E. 2. f.** Marinas shall be designed to not interfere with existing navigational routes on the river.

#### **8.02 E. 3. Marinas - Designation Specific Requirements**

##### **8.02 E. 3. a. Aquatic**

- 8.02 E. 3. a. 1)** Marinas are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

##### **8.02 E. 3. b. Natural**

- 8.02 E. 3. b. 1)** Prohibited.

##### **8.02 E. 3. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

- 8.02 E. 3. c. 1)** Conditional Use Permit.

#### **8.02 E. 4. Docks and Moorage - Specific Regulations**

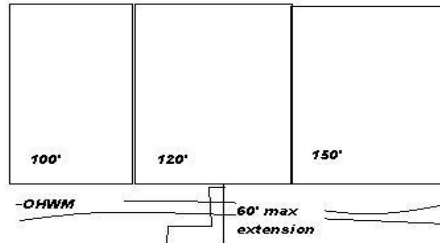
The regulations that follow are applicable to all docks, shared moorage facilities, and other overwater boating facilities, and the word “dock” shall apply to all such facilities.

- 8.02 E. 4. a.** The Administrator shall require and use the following information in his or her review of proposals for docks:

- 8.02 E. 4. a. 1)** Description of the proposed structure, including its size, location, design, materials, and any shoreline stabilization or other modifications required by the project.

- 8.02 E. 4. a. 2)** Proposed location of the dock relative to property lines and the ordinary high water mark.
- 8.02 E. 4. a. 3)** Orientation of the dock relative to neighboring docks.
- 8.02 E. 4. a. 4)** Anticipated impacts on views and on access to existing docks, and other reasonably foreseeable impacts on adjacent properties.
- 8.02 E. 4. a. 5)** Any provisions for public access, enjoyment and use of the water and shorelines.
- 8.02 E. 4. b.** Docks shall not significantly interfere with the use of navigable waters or with public use of shorelines. The length of any dock shall be the minimum necessary to assure navigability and protect public use of the water body. On “T” or “L” shaped docks, the length of the extension or extensions perpendicular to the main body of the dock shall not exceed 50% of the length of the lot property line at the OHWM, or the upland property line adjacent to the lake, as shown in Figure 8.02 a, below. Docks may be prohibited where necessary to protect navigation or public use of the water body. Docks not attached to the shoreline may be allowed where the dock serves a water-dependent or water-oriented use and measures have been taken to reduce the hazard to navigation.

**Figure 8.02 a) Dock Extension**



- 8.02 E. 4. c.** All docks shall be constructed and maintained in a safe condition. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Abandoned or unsafe docks shall be removed or repaired promptly by the adjoining upland property owner. Where any such structure constitutes a hazard to the public, the local government with jurisdiction may, following notice to the owner, abate the structure if the owner fails to do so within 90 days. Said government may impose a lien on the associated shoreline property in an amount equal to the cost of the abatement.
- 8.02 E. 4. d.** No over-water application of preservative treatment or other chemical compounds shall be permitted. Docks may be painted provided brush application is used and best management practices are followed to prevent paint from coming in contact with the water.
- 8.02 E. 4. e.** Any person or succession of different persons residing on the vessel in a specific location, and/or in the same area on more than a total of thirty days in any

forty-day period or on more than a total of ninety days in any three hundred sixty-five-day period results in a "Residential Use" Status and is prohibited. "In the same area" means within a radius of one mile of any location where the same vessel previously moored or anchored on state-owned aquatic lands. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered used as a recreational or transient vessel.

**8.02 E. 4. f.** Bulk storage for gasoline, oil, and other petroleum products is prohibited on docks.

**8.02 E. 4. g.** All docks shall be designed and constructed in compliance with the following standards:

**8.02 E. 4. g. 1)** Pilings must be structurally sound prior to placement in the water.

**8.02 E. 4. g. 2)** Piles, floats, or other materials in direct contact with the water must be approved by applicable state agencies, including the Washington Department of Fish and Wildlife and, in the case of navigable waters, the Washington Department of Natural Resources.

**8.02 E. 4. g. 3)** Floating docks shall include stops to keep the floats off the bottom of the water body at low water level.

**8.02 E. 4. g. 4)** Overhead wiring or plumbing is not permitted on docks.

**8.02 E. 4. g. 5)** Lighting shall be the minimum necessary to locate the dock at night and shall focus downward to minimize glare. Any dock extending more than fifty feet (50') beyond the OHWM shall have white lights marking the outer dimensions. In all cases, solar-powered lights shall be preferred.

**8.02 E. 4. g. 6)** Docks with feet or plates that rest on the lakebed or streambed are preferred over those requiring excavation and footings.

**8.02 E. 4. g. 7)** Dock design, placement, and orientation shall allow for access to existing docks in the vicinity and shall minimize impacts on adjacent properties, including impacts on views.

**8.02 E. 4. h.** All residential moorage facilities shall be subject to number, size, and setback standards as follows:

**8.02 E. 4. h. 1)** Number:

**i.** All new residential developments (including subdivisions if moorage facilities are to be proposed) serving more than two dwelling units that intend to provide moorage facilities must create shared moorage facilities rather than individual docks. Such development, including new residential subdivisions or planned developments shall be required to indicate the location of shoreline access to proposed moorage facilities at the time of plat or subdivision.

**ii.** All multi-family residences proposing to provide moorage facilities shall be limited to a single shared moorage facility, provided that the Administrator

may authorize more than one shared moorage facility if, based on conditions specific to the site, a single facility would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional facility or facilities will have no net impact on shoreline ecological resources.

- iii. For existing residential lots, no more than one dock shall be permitted for each shoreline lot.

**8.02 E. 4. h. 2) Size:**

- i. The length of any dock shall be the minimum necessary to accomplish moorage for the intended boating use and shall be only long enough to accommodate slips for one boat for each residence served plus one slip for transient moorage.
- ii. A dock serving a single family use over 200 square feet or 25 feet in length is allowed only as a conditional use in all shoreline designations.
- iii. To decrease impacts on navigation, docks extending farther than 1/3 the width of the river, measured perpendicular to the shoreline where dock is to be installed, shall not be allowed.

**8.02 E. 4. h. 3) Side yard setbacks:**

- i. Docks shall be set back a minimum of five feet (5') from side property lines, except that shared moorage facilities may be located adjacent to or upon a side property line when mutually agreed to by a legal instruments such as a contract, covenant or easement with the owners of all properties with access privilege. A copy of the contract, covenant or easement must be recorded with the Okanogan County Auditor and filed with the application for permit or shoreline exemption.

**8.02 E. 4. i. All shared moorage facilities shall be subject to the following standards:**

**8.02 E. 4. i. 1)** Shared moorage facilities shall include no more than one moorage space per dwelling unit or lot and one transient slip.

**8.02 E. 4. i. 2)** The size of the moorage facility shall be the minimum necessary to accomplish moorage for one boat for each residence served plus one transient slip, and the moorage facility shall be configured to cause minimal disturbance to shoreline resources.

**8.02 E. 4. i. 3)** Any requirement for shared moorage shall be documented with a restriction on the face of the plat. Restrictive covenants prohibiting individual docks and requiring shared moorage, and providing that the covenants shall not be altered without the approval of the Administrator, shall be recorded with the Okanogan County Auditor.

**8.02 E. 4. i. 4)** If shared moorage is provided, the applicant shall file a legally enforceable joint use agreement or other legal instrument at the time the permit

application for the mooring facility is submitted. Said instrument shall, at minimum, address the following:

- i. Provisions for maintenance and operation;
- ii. Easements or tracts for community access; and
- iii. Provisions for joint or community use for all benefiting parties.

**8.02 E. 4. i. 5)** Any site for shared moorage shall be owned in undivided interest by property owners or managed by the homeowners' association as a common easement within the residential development. Shared moorage facilities shall be available to property owners in the residential development for community access.

#### **8.02 E. 5. Piers and Docks - Designation Specific Requirements:**

##### **8.02 E. 5. a. Aquatic**

**8.02 E. 5. a. 1)** Piers and docks are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

##### **8.02 E. 5. b. Natural**

**8.02 E. 5. b. 1)** Piers and docks for motor-craft are prohibited.

**8.02 E. 5. b. 2)** Piers and docks for non-motorized craft require Conditional Use Permit.

##### **8.02 E. 5. c. Shoreline Recreation, Urban Conservancy, High Intensity and Shoreline Residential**

**8.02 E. 5. c. 1)** Piers and docks shall be allowed subject to a Substantial Development Permit.

#### **8.02 E. 6. Moorage - Designation Specific Requirements:**

##### **8.02 E. 6. a. Aquatic**

**8.02 E. 6. a. 1)** Moorage facilities are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

##### **8.02 E. 6. b. Natural, Urban Conservancy and Shoreline Residential**

**8.02 E. 6. b. 1)** Moorage facilities for motor-craft are prohibited.

##### **8.02 E. 6. c. High Intensity and Shoreline Recreation**

**8.02 E. 6. c. 1)** Moorage facilities shall be allowed subject to a shoreline Conditional Use Permit.

#### **8.02 E. 7. Float-Specific regulations:**

**8.02 E. 7. a.** No more than one float shall be permitted for each shoreline lot.

**8.02 E. 7. b.** Floats shall not significantly interfere with the use of navigable waters or with public use of shorelines. No portion of the float shall be placed more than eighty feet (80') from the OHWM or the point at which the depth of the water exceeds seven feet (7') during high water. Floats may be prohibited where necessary to protect navigation or public use of the water body.

**8.02 E. 7. c.** No float shall have more than one hundred (100') square feet of surface area.

**8.02 E. 7. d.** All multi-family residences proposing to provide floats shall be limited to a single shared float, provided that the Administrator may authorize more than one shared float if, based on conditions specific to the site, a single float would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional float or floats will have no net impact on shoreline ecological resources.

**8.02 E. 8. Floats - Designation Specific Requirements:**

**8.02 E. 8. a. Aquatic**

**8.02 E. 8. a. 1)** Floats are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

**8.02 E. 8. b. Urban Conservancy, Natural and High Intensity**

**8.02 E. 8. b. 1)** Conditional Use Permit.

**8.02 E. 8. c. Shoreline Recreation and Shoreline Residential**

**8.02 E. 8. c. 1)** Substantial Development Permit.

**8.02 E. 9. Covered Moorage (e.g., overhead boat & jet ski canopies) - Designation Specific Requirements**

**8.02 E. 9. a. Aquatic, Natural, Urban Conservancy, Shoreline Residential, Shoreline Recreation, and High Intensity**

**8.02 E. 9. a. 1)** Prohibited

**8.02 E. 10. Boat Lifts - Designation Specific Requirements**

**8.02 E. 10. a. Aquatic**

**8.02 E. 9. a. 1)** Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

**8.02 E. 10. b. Natural**

**8.02 E. 10. b. 1)** Prohibited

**8.02 E. 10. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential, and High Intensity:**

**8.02 E. 10. c. 1)** Substantial Development Permit.

### **8.02 E. 11. Commercial and Public Boat Launch Ramps - Designation Specific Requirements**

#### **8.02 E. 11. a. Aquatic.**

**8.02 E. 11. a. 1)** Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

#### **8.02 E. 11. b. Natural,**

**8.02 E. 11. b. 1)** All launch ramps prohibited.

#### **8.02 E. 11. c. High Intensity, Shoreline Recreation**

**8.02 E. 11. c. 1)** Commercial and Public: Substantial Development Permit.

#### **8.02 E. 11. d. Urban Conservancy, Shoreline Residential**

**8.02 E. 11. d. 1)** Commercial: Prohibited.

**8.02 E. 11. d. 2)** Public: Substantial Development Permit in Urban Conservancy, Conditional Use Permit in Shoreline Residential.

### **8.02 E. 12. Individual Private Boat Launch Ramps - Designation Specific Requirements**

#### **8.02 E. 11. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 E. 11. a. 1)** Prohibited.

### **8.02 E. 13. Mooring Buoys/Float Plane Moorage Accessory to Permitted Moorage - Designation Specific Requirements**

#### **8.02 E.13. a. Natural, Aquatic, Waterward of Urban Conservancy**

**8.02 E. 13. a. 1)** Conditional Use Permit

#### **8.02 E. 13. b. Aquatic, waterward of Shoreline Recreation, Shoreline Residential, and High Intensity**

**8.02 E. 13. b. 1)** Substantial Development Permit.

## **8.02 F. Commercial Uses and Activities**

### **8.02 F. 1. Commercial Uses and Activities – General Regulations**

**8.02 F. 1. a.** Commercial developments permitted in shoreline areas are, in descending order of preference:

- 8.02 F. 1. a. 1)** Water-dependent uses;
- 8.02 F. 1. a. 2)** Water-related uses;
- 8.02 F. 1. a. 3)** Water-enjoyment uses; and
- 8.02 F. 1. a. 4)** Non-water-oriented

**8.02 F. 1. b.** The Administrator shall require and use the following information in his or her review of commercial development proposals:

- 8.02 F. 1. b. 1)** Consistency with local comprehensive plan and zoning;
- 8.02 F. 1. b. 2)** Specific nature of the commercial activity;
- 8.02 F. 1. b. 3)** Need for shoreline frontage; determination if use qualifies as water-dependent, water-related or water-enjoyment;
- 8.02 F. 1. b. 4)** Provisions for public visual and/or physical access to the shoreline;
- 8.02 F. 1. b. 5)** Provisions to ensure that the development will not result in loss of shoreline functions including conditions for ecological restoration;
- 8.02 F. 1. b. 6)** Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
- 8.02 F. 1. b. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and accompanying maps.

**8.02 F. 1. c.** Nonwater-oriented commercial uses are prohibited in all shoreline designations unless they meet the following criteria:

- 8.02 F. 1. c. 1)** The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- 8.02 F. 1. c. 2)** Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
- 8.02 F. 1. c. 3)** In areas designated or zoned for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property, flood control structure or public right of way.

**8.02 F. 1. c. 4)** Non-water dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

**8.02 F. 1. c. 5)** The use serves a function supportive of water-oriented or water-dependent uses or is otherwise consistent with approved community planning.

**8.02 F. 1. d.** Commercial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area. To that end, the Administrator may, following a public hearing, adjust the project dimensions and alter required setbacks established in Table 8.1 and/or prescribe screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

**8.02 F. 1. d. 1)** All commercial loading and service areas shall be located on the upland (landward) side of the commercial structure to the maximum extent practical or provisions shall be made to separate and screen the loading and service areas from the shoreline.

**8.02 F. 1. d. 2)** Commercial developments where landscaping is proposed shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. The permit application submittal shall identify the size, location, and species of plants that will be used.

**8.02 F 1. e.** Commercial development on private and public lands shall be required to consider incorporating public access and ecological restoration as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, where commercial use is proposed for location on land in public ownership, public access shall be required. Refer to Section 8.02 K and WAC 173-26-221(4) for public access provisions. Any intended public access facilities must be platted, or incorporated into a binding site plan, improved, and maintained and in compliance with local comprehensive planning and shoreline recreational access planning.

## **8.02 F.2 Commercial Uses and Activities - Designation Specific Requirements:**

### **8.02 F. 2. a. Aquatic**

**8.02 F. 2. a. 1)** Commercial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

**8.02 F. 2. a. 2)** Conditional use permit.

### **8.02 F. 2. b. Natural, Urban Conservancy**

**8.02 F. 2. b. 1)** Prohibited.

**8.02 F. 2. c. Shoreline Recreation, Shoreline Residential and High Intensity**

**8.02 F. 2. c. 1)** Commercial development is allowed with a substantial development permit provided such development is consistent with local zoning regulations or directly related to an existing conforming or permitted agricultural, recreational or residential use and be subject to the development standards set forth in Table 8.1 as follows:

- i. Commercial development shall be water-oriented, except as allowed in 8.02 F. 1. c.
- ii. Commercial development shall be consistent with local comprehensive plan provisions and zoning regulations.

**8.02 G. Industrial Uses and Activities**

**8.02 G. 1. Industrial Uses and Activities – General Regulations**

**8.02 G. 1. a.** Industrial developments permitted in shoreline areas are, in descending order of preference:

- 8.02 G. 1. a. 1)** Water-dependent uses;
- 8.02 G. 1. a. 2)** Water-related uses;
- 8.02 G. 1. a. 3)** Water-enjoyment uses; and
- 8.02 G. 1. a. 4)** Non-water-oriented uses

**8.02 G. 1. b.** New nonwater-oriented industrial development shall be prohibited in all shoreline designations except when:

- 8.02 G. 1. b. 1)** The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- 8.02 G. 1. b. 2)** Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
- 8.02 G. 1. b. 3)** In areas designated or zoned for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

**8.02 G. 1. c.** The Administrator shall require and use the following information in his or her review of industrial development proposals:

- 8.02 G. 1. c. 1)** Consistency with local comprehensive plans and zoning;
- 8.02 G. 1. c. 2)** Specific nature of the industrial activity;
- 8.02 G. 1. c. 3)** Need for shoreline frontage;

- 8.02 G. 1. c. 4)** Provisions for public visual and/or physical access to the shoreline;
- 8.02 G. 1. c. 5)** Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;
- 8.02 G. 1. c. 6)** Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
- 8.02 G. 1. c. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and accompanying maps.
- 8.02 G. 1. d.** Industrial development shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-221](#)(4).
- 8.02 G. 1. e.** Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.
- 8.02 G. 1. f.** Where industrial development is allowed, it shall be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
- 8.02 G. 1. g.** Industrial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in Table 8.1 and/or prescribe reasonable use-intensity and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.
- 8.02 G. 1. h.** New over-water construction for industrial uses is prohibited unless it can be shown to be essential to a water-dependent industrial use.
- 8.02 G. 1. i.** All loading and service areas shall be located on the upland (landward) side of the industrial facility or provisions shall be made to separate and screen the loading and service areas from the shoreline, unless such provisions are infeasible due to the specific nature of the water-dependent industrial use or the proposed circulation poses a safety hazard to existing traffic patterns.
- 8.02 G. 1. j.** Industrial development on private and public lands shall be required to consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-241](#)(3)(f). Any intended public access facilities must be platted, or incorporated into a binding site plan, improved, and maintained and in compliance with local comprehensive planning and shoreline recreational access planning.

- 8.02 G. 1. k.** Industrial developments shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used.
- 8.02 G. 1. l.** Drainage and surface runoff from industrial developments shall be controlled so that pollutants will not be carried into water bodies.

## **8.02 G. 2. Industrial Uses - Designation Specific Requirements:**

### **8.02 G. 2. a. Aquatic**

**8.02 G. 2. a. 1)** Industrial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

**8.02 G. 2. a. 2)** All such uses shall require a conditional use permit and be subject to the development standards set forth in Table 8.1.

### **8.02 G. 2. b. Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential**

**8.02 G. 2. b. 1)** New industrial development shall be prohibited.

**8.02 G. 2. b. 2)** Expansion of pre-existing water-dependent industrial uses in these zones shall only be permitted through a conditional use permit.

**8.02 G. 2. b. 3)** Expansion of pre-existing industrial uses shall not alter the visual character of the zone and be subject to mitigations measures that will enhance the natural character of the shoreline.

### **8.02 G. 2. c. High Intensity**

**8.02 G. 2. c. 1)** Water-oriented industrial development is allowed with a substantial development permit provided such development is conforming to the underlying land use zone or associated with a permitted agricultural or industrial use and be subject to the development standards set forth in Table 8.1.

**8.02 G. 2. c. 2)** Industrial development shall be water dependent, water related or water-oriented or be physically separated from the shoreline by another property under separate ownership, a flood control structure, or public right of way.

**8.02 G. 2. c. 3)** In no case shall non-water dependent new industrial development warrant to construction of flood protection structures or shoreline stabilization.

## **8.02 H. Mining Uses and Activities**

### **8.02 H. 1. Mining Uses and Activities – General Regulations**

**8.02 H. 1. a.** Mineral prospecting and placer mining are allowed subject to compliance with the current edition of the Washington State Department of Fish and Wildlife's Gold and Fish pamphlet, all other prospecting and placer mining activities at different times or locations, or with different equipment than allowed in WDFW Gold and Fish shall require a Conditional Use Permit. This provision does not apply to mining that meets the definition of a substantial development (See Chapter 2 – Definitions). .

**8.02 H. 1. b.** All surface mining shall be conducted in strict conformance with the Washington State Surface Mining Reclamation Act, Chapter 78.44 RCW. Surface mining permits shall be coordinated with state and federal permits.

**8.02 H. 1. c.** Mining not meeting the definition of mineral prospecting or placer mining shall require a conditional use permit.

**8.02 H. 1. d.** In all shoreline designations, mining shall only be allowed by Conditional Use Permit and only when the proposed mine site has been identified as a mineral land of long term commercial significance.

**8.02 H. 1. e.** Mining waterward of the ordinary high-water mark:

**8.02 H. 1. e. 1)** Mining waterward of the ordinary high-water mark of a river shall not be permitted unless:

- i. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and
- ii. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

**8.02 H. 1. e. 2)** The determinations required by Section 8.02 H.1. a., above, shall be made consistent with RCW 90.58.100(1) and WAC [173-26-201](#) (2)(a) and shall be integrated with required SEPA review.

**8.02 H. 1. e. 3)** In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, local government shall require compliance with the provisions of 8.02.H.1.f and 8.02 H. 1. g. to the extent that no such review has previously been conducted. Where there has been prior review, local government shall review previous determinations comparable to the requirements of this section to assure compliance with the provisions of Section 8.02 H. 1. g. and 8.02 H. 1 g.

**8.02 H. 1. e. 4)** The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC [173-26-231](#) (3)(f).

**8.02 H. 1. f.** The Administrator shall require and use the following information in his or her review of mining proposals (except mineral prospecting and placer mining):

**8.02 H. 1. f. 1)** Materials to be mined;

**8.02 H. 1. f. 2)** Need for those materials;

**8.02 H. 1. f. 3)** Need for shoreline location;

**8.02 H. 1. f. 4)** Quantity of materials to be mined, by type;

- 8.02 H. 1. f. 5)** Quality of materials to be mined, by type. For certain minerals, an evaluation by a geologist licensed under the provisions of RCW 18.220 may be required;
  - 8.02 H. 1. f. 6)** Mining technique and equipment to be used;
  - 8.02 H. 1. f. 7)** Depth of overburden and proposed depth of mining;
  - 8.02 H. 1. f. 8)** Lateral extent and depth of total mineral deposit;
  - 8.02 H. 1. f. 9)** Cross section diagrams indicating present and proposed elevations and/or extraction levels;
  - 8.02 H. 1. f. 10)** Existing drainage patterns, seasonal or continuous, and proposed alterations thereof including transport and deposition of sediment and channel changes that may result;
  - 8.02 H. 1. f. 11)** Proposed means of controlling surface runoff and preventing or minimizing erosion and sedimentation including impacts to banks on both sides of the excavation;
  - 8.02 H. 1. f. 12)** The location and sensitivity of any affected critical areas;
  - 8.02 H. 1. f. 13)** Subsurface water resources and aquifer recharge areas, including origin, depth, and extent;
  - 8.02 H. 1. f. 14)** Quality analysis of overburden, excavation materials, and tailings, with plans for storage, use, or disposition;
  - 8.02 H. 1. f. 15)** Mining plan and scheduling, including seasonal, phasing, and daily operation schedules;
  - 8.02 H. 1. f. 16)** Reclamation plan that meets the requirements of this master program and Chapter 78.44 RCW (for surface mining operations only);
  - 8.02 H. 1. f. 17)** Screening, earthen berm buffering, and/or fencing plans; and
  - 8.02 H. 1. f. 18)** Impacts to aquatic and shoreline habitat.
- 8.02 H. 1. g.** Mining operations (except mineral prospecting and placer mining) shall be sited, designed, conducted, and completed (including reclamation) to ensure no net loss of shoreline ecological functions, including watershed-scale functions and cumulative impacts. A reclamation plan prepared by a qualified professional and providing for restoration of slope stability, water conditions, safety conditions, and, where relevant, vegetative cover shall be required for any new mining and associated activities. Meeting the “no net loss” standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation, and shall be based on an evaluation of the final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. The proposed subsequent use of mined property must be consistent with the provisions of the environment designation in which the property is located. Performance security requirements are as follows:

**8.02 H. 1. g. 1)** Surface mining operations must comply with the relevant performance security requirements of RCW 78.44.

**8.02 H. 1. g. 2)** A public or governmental agency shall not be required to post performance security.

**8.02 H. 1. g. 3)** All other approved mining operations shall be required to post performance security in an amount adequate to complete reclamation, based on an approved reclamation plan.

**8.02 H. 1. h.** Mining operations shall comply with all local, state, and federal water quality standards and pollution control laws. Operations shall use effective techniques to prevent or minimize surface water runoff, erosion and sedimentation; prevent reduction of natural flows; protect all shoreline areas from acidic or toxic materials; and maintain the natural drainage courses of all streams. Surface water runoff shall be impounded as necessary to prevent accelerated runoff and erosion.

**8.02 H. 1. i.** Overburden, mining debris, and tailings shall not be placed in water bodies or floodways and shall be stored and protected so as to prevent or minimize erosion or seepage to surface and ground waters.

**8.02 H. 1. j.** Precautions shall be taken to insure that stagnant or standing water especially that of a toxic or noxious nature does not develop.

**8.02 H. 1. k.** In no case shall mining operations impair lateral support and thereby result in earth movements extending beyond the boundaries of the site.

**8.02 H. 1. l.** If substantial evidence indicates that mining operations are causing, or continued operation would cause, significant and adverse impacts to water quality, habitat, or any shoreline ecological function, the Administrator shall terminate the shoreline permit for mining or impose further conditions on the mining operation to ensure no net loss of shoreline ecological functions.

## **8.02 H. 2. Mining - Designation Specific Requirements:**

### **8.02 H. 2. a. Aquatic**

**8.02 H. 2. a. 1)** Mining shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM.

**8.02 H. 2. a. 2)** Mineral prospecting and placer mining are allowed subject to the provisions of Section 8.02 H. 1. a.

### **8.02 H. 2. b. Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 H. 2. b. 1)** Mining is prohibited, unless the subject property has been designated as mineral lands of long-term commercial significance which shall require a conditional use permit.

**8.02 H. 2. b. 2)** Mineral prospecting and placer mining are allowed subject to the provisions of this section, above.

## **8.02 I. Municipal (includes all local governments)**

Municipal uses are those in support of local government functions and services (e.g. public schools, city hall, maintenance facilities, hospitals, etc...). For the purposes of this SMP, recreational uses and utility facilities are excluded and shall comply with applicable sections.

### **8.02 I. 1. Municipal – General Regulations**

**8.02 I. 1. a.** Non-water-oriented municipal uses will be permitted in shoreline areas only when no other feasible location is available, and only in compliance with bulk and dimensional standards established in Table 8.1 and shall be in compliance with the clearing and grading ordinance section.

**8.02 I. 1. b.** The Administrator shall require and use the following information in his or her review of municipal use proposals:

**8.02 I. 2. b. 1)** Specific nature of the proposed activity;

**8.02 I. 2. b. 2)** Need for shoreline location; including minimizing portion of use within shoreline jurisdictions.

**8.02 I. 2. b. 3)** Other locations considered and the reasons for choosing a shoreline site;

**8.02 I. 2. b. 4)** Provisions for public visual and/or physical access to the shoreline;

**8.02 I. 2. b. 5)** Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;

**8.02 I. 2. b. 6)** Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and

**8.02 I. 2. b. 7)** The *Shoreline Inventory and Characterization* (Appendix A and Chapter 4) and maps developed as part of this SMP.

**8.02 I. 1. c.** Municipal uses shall not be allowed in wetlands, or shoreline riparian vegetation conservation areas (Zone 1 & 2) or their buffers without following mitigation sequencing, complying with other parts of the SMP and Appendix C. All loading and service areas shall be located on the upland (landward) side of the principal structure or provisions shall be made to separate and screen the loading and service areas from the shoreline.

**8.02 I. 1. d.** Municipal uses shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall include a landscape plan identifying the size, location, and species of plants that will be used.

**8.02 I. 1. e.** Drainage and surface runoff from municipal uses shall be controlled so that pollutants will not be carried into water bodies complying with the Eastern Washington Stormwater Manual.

**8.02 I. 1. f.** Public access facilities must be provided, dedicated, improved, and maintained as part of any shoreline municipal use.

**8.02 I. 2. Municipal - Designation Specific Requirements:**

**8.02 I. 2. a. Aquatic**

**8.02 I. 2. a. 1)** Municipal uses shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM..

**8.02 I. 2. b. Natural**

**8.02 I. 2. b. 1)** Municipal Uses are prohibited, except low intensity recreational uses and restoration activities.

**8.02 I. 2. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 I. 2. c. 1)** Non-water oriented uses and activities require a conditional use permit.

**8.02 I. 2. c. 2)** Water-oriented uses require a substantial development permit.

**8.02 J. Parking**

**8.02 J. 1. Parking – General Regulations**

**8.02 J. 1. a.** Any new and expanded parking area in a shoreline area shall directly serve an existing (legal at the time of adoption of this SMP) shoreline use and shall not be located on the waterward side of the permitted use.

**8.02 J. 1. b.** All parking shall be prohibited over water.

**8.02 J. 1. c.** Parking facilities shall prevent surface water runoff from contaminating water bodies, using the best available technology and best management practices, including complying with applicable Eastern Washington Storm Water Manual, and a maintenance program to assure proper functioning over time of any stormwater facilities required to comply with this regulation.

**8.02 J. 1. d.** New commercial and industrial parking facilities, necessary to support an authorized use, in shoreline areas shall be sited in compliance with bulk and dimensional standards and comply with Clearing and Grading Standards of Table 8.3 and designed to minimize visual, pedestrian, and other transportation network impacts as well as to minimize environmental impact on shoreline resources.

**8.02 J. 1. e.** Commercial parking facilities shall be adequately screened and landscaped along the waterward side with plants from the recommended list (Appendix E). Where a flood levee exists, it shall be considered screening.

**8.02 J. 1. f.** Parking facilities that will serve more than one use, such as recreational use on weekends and commercial use on weekdays shall be allowed and preferred to single use parking facilities.

## **8.02 J. 2. Parking - Designation Specific Regulations**

### **8.02 J. 2. a. Aquatic, Natural**

**8.02 J. 2. a. 1)** All parking - prohibited.

### **8.02 J. 2. b. Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 J. 2. b. 1)** Parking as a primary use - prohibited.

**8.02 J. 2. b. 2)** Parking appurtenant to a permitted use – allowed

## **8.02 K. Public Access**

### **8.02 K. 1. Public Access – General Regulations**

**8.02 K. 1. a.** For the purpose of this SMP, the Town of Twisp Comprehensive Plan shall be considered the official public access plan. Additional recreation plans approved by Town Council may be used to supplement public access provisions of the Comprehensive Plan for this SMP and are included as Appendix F.

**8.02 K. 1. b.** Development, uses, and activities shall be designed and operated to avoid unnecessarily impairing or detracting from the public's physical or visual access to the water and shorelines.

**8.02 K. 1. c.** Public access sites shall be dedicated to a public or non-profit entity unless a formal homeowners association or other legal entity exists or will be established to ensure the long term viability of the access.

**8.02 K. 1. d.** The Signage regulations in Section 8.02 O Signage of this chapter and the Shoreline Development Standards in Table 8.1 have been established in part to prevent impairment of or detracting from visual public access.

**8.02 K. 1. e.** Provisions for public or community access to the shoreline shall be incorporated into the shoreline development proposal for any action requiring such access unless the applicant demonstrates that such access is infeasible because at least one of the following provisions applies:

**8.02 K. 1. e. 1)** Unavoidable health or safety hazards to the public exist which cannot be prevented by any practicable means;

**8.02 K. 1. e. 2)** Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

**8.02 K. 1. e. 3)** Unacceptable environmental harm will result from the public access which cannot be mitigated;

**8.02 K. 1. e. 4)** Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated;

**8.02 K. 1. e. 5)** In determining that public access (physical or/and visual) is infeasible the director and applicant shall ensure that all reasonable alternatives have been evaluated, including but not limited to:

- i.** Regulating access by such means as limiting hours of use to daylight hours;
- ii.** Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc;
- iii.** Provision of an access at a site physically separated from the proposal such as a nearby street end, providing off-site public access improvements such as building a view point or establishment or providing improvements to a trail system.

**8.02 K. 1. f.** Dedication and improvement of physical public access shall be required as part of all shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, with the following exceptions:

**8.02 K. 1. f. 1)** Where an approved public access plan developed as part of a regulatory licensing process is submitted. Said public access plan must provide adequate public access to the shoreline, based on a needs analysis. Said public access facilities shall be developed, improved, and maintained as part of an approved Shoreline Recreational Plan and installed in a timely manner in coordination with the approved shoreline development.

**8.02 K. 1. f. 2)** Where more effective public access to the shoreline can be achieved through implementation of the adopted recreation plan of the local government with jurisdiction, the public entity or private individual proposing the development may contribute proportionally to implementation of the recreation plan in lieu of providing public access on site unless onsite improvements are part of the public access plan.

**8.02 K. 1. f. 3)** Where the community makes a finding that no additional public access is required consistent with local comprehensive plans, subject to approval by CUP.

**8.02 K. 1. g.** Dedication and improvement of public physical access shall be required in all shoreline areas as follows:

**8.02 K. 1. g. 1)** As part of all marina development;

**8.02 K. 1. g. 2)** As part of boating facilities designed to serve the public or located on and adjoining on publically owned uplands.

**8.02 K. 1. g. 3)** As part of all new water-enjoyment, water-related and non-water-dependent commercial and industrial development, while consistent with local comprehensive plans, provided the intended use does not pose a safety threat to the general public.

**8.02 K. 1. g. 4)** As part of all primary utility development on public land. The requirement may be waived where an approved public access plan has been

adopted as part of a regulatory licensing process. Said public access plan must provide adequate public access, based on a needs analysis.

- 8.02 K. 1. g. 5)** As part of all subdivisions of land into more than four parcels, while consistent with local comprehensive plans and recreational public access plans.
- 8.02 K. 1. g. 6)** As part of new structural public flood hazard reduction measures, such as dikes and levees.
- 8.02 K. 1. g. 7)** As part of publicly financed or subsidized shoreline erosion control measures, where feasible, incorporate ecological restoration and public access improvements into the project, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. These shoreline erosion measures shall not restrict existing public access to the shoreline.
- 8.02 K. 1. h.** Adjoining short plats totaling more than four parcels and submitted within 5 years of each other by the same applicant shall be subject to public access dedications.
- 8.02 K. 1. i.** The scope and scale of public access shall be commensurate with the scale of the proposed land use action and the need for public physical and visual access opportunities in the vicinity of the proposed action. Multi-family and multi-lot residential and recreational developments shall provide public access and joint use for community recreational facilities.
- 8.02 K. 1. j.** In all cases, the minimum width of shoreline public access easements shall be ten feet (10'), unless the Administrator determines that undue hardship would result. In such cases, easement or right-of-way widths may be reduced only to the extent necessary to relieve the demonstrated hardship.
- 8.02 K. 1. k.** Where there is an irreconcilable conflict between water-dependant shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependant uses and physical public access shall have priority, unless there is a compelling reason to the contrary.
- 8.02 K. 1. l.** Rights of navigation shall be protected in conformance with the provisions of this Master Program.
- 8.02 K. 1. m.** Public access sites and facilities shall be designed, constructed, operated, and maintained to result in no net loss of shoreline ecological functions.
- 8.02 K. 1. n.** Public access sites shall be connected directly to the best-suited public street by way of a right of way or easement dedicated, improved, and maintained for public use. This requirement may be modified if the cost would be disproportionate to the scale of the proposed land use action.
- 8.02 K. 1. o.** Any vacation of right-of-way within the shoreline must comply with RCW 35.79.035, "Limitations on vacations of streets abutting bodies of water — Procedure." Vacation of existing public access established through deed or

declarations may not be vacated with written approval of the Town Shoreline Administrator.

**8.02 K. 1. p.** Where feasible, and in accordance with the Americans with Disabilities Act (ADA), public access sites shall be made barrier-free for people with disabilities.

**8.02 K. 1. q.** Required public access sites shall be developed and available for public use at the time of occupancy of the use or activity; or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.

**8.02 K. 1. r.** Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

**8.02 K. 1. s.** Public access easements shall be recorded on the deed of title and/or on the face of the plat or short plat as conditions running in perpetuity. Said recording with the Okanogan County Auditor's Office shall occur at the time of permit approval. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

**8.02 K. 1. t.** The standard State-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites.

**8.02 K. 1. u. View Corridor Provisions.**

**8.02 K. 1. u. 1)** View corridors shall comply with provisions for vegetation management and buffer requirements for the shoreline designation for the project site. View Corridors shall be allowed to the percentage listed in table 8. 1, but in no case shall a single view corridor be greater than 30' in width per 100 linear feet of shoreline.

**8.02 K. 1. u. 2)** View corridors may be allowed, subject to the provisions of this section, to provide the general public and property owners with opportunities for visual access to water bodies associated with shoreline lots.

**8.02 K. 1. u. 3)** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited.

**8.02 K. 1. u. 4)** Prior to removing vegetation for a view corridor, the owner of the shoreline parcel on which vegetation alterations are proposed must submit:

- i. A signed application;
- ii. A scaled graphic which demonstrates the areal extent of the view corridor (width and depth), showing existing vegetation and proposed alterations; and
- iii. A graphic and/or site photos for the entire shoreline frontage, which demonstrates that the building site and proposed or existing structure does not,

or will not when constructed, have a view of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.

**8.02 K. 1. u. 5)** In creating a view corridor, removal of vegetation shall be limited to the minimum necessary to preserve or enhance views. In no case shall the view corridor exceed the provisions found in Table 8.1.

**i.** The following standards apply:

- (1) View corridors are not allowed in the Natural and Urban Conservancy designations unless associated with an existing use.
- (2) Pruning of native trees shall not exceed 30% of a tree's limbs. Topping of native trees is prohibited.
- (3) Shrubs shall not be pruned to a height of less than six feet (6').
- (4) Removal or pruning of vegetation waterward of the ordinary high water mark is prohibited.
- (5) Once a view corridor or other shoreline access corridor has been established, no additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs.
- (6) On any site on which a buffer has been reduced or modified, a view corridor will be allowed only when a critical areas report (described in Appendix C) can clearly establish that fragmentation of fish and wildlife habitat will not occur, and that there will be no net loss of shoreline ecological functions.

**ii.** The following exceptions apply:

- (1) Plants that represent a hazard to safety, security, or shoreline ecological functions may be replaced with plants from the recommended list (Appendix E), provided a mitigation plan is submitted and approved. The mitigation plan must meet the standards of the local government with jurisdiction for a mitigation plan for Critical Fish and Wildlife Habitat.
- (2) Non-native or invasive species may be replaced with plants from the recommended list (Appendix E), provided a mitigation management plan is submitted and approved. The mitigation plan must meet the standards of the local government with jurisdiction for a mitigation plan for Critical Fish and Wildlife Habitat.
- (3) All developments proposing a view corridor shall provide a mitigation plan that will need to be approved by the administrator. The mitigation plan must meet the standards of the Appendix C with jurisdiction for a mitigation plan for Critical Fish and Wildlife Habitat.

**8.02 K. 1. u. 6)** Trimming and removal of trees to provide or enhance visual access shall be limited to the requirements found in this section, limitations found in Table 8.1 as well as shoreline modification standards found in Section 8.03.

**8.02 K. 1. u. 7)** Removal of diseased, damaged or stressed trees for the purpose of forest stewardship and conservation, property protection, or fire safety are subject to approval through a shoreline exemption.

## **8.02 L. Utilities**

Utilities are transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants. On-site utility features serving a shoreline property, such as water, sewer or gas line connections to a residence, are "accessory utilities" and shall be considered a part of the primary use and are subject to the regulations contained in Section 8.02 A Accessory Utilities.

### **8.02 L. 1. Utilities – General Regulations**

**8.02 L. 1. a.** Utility development shall be located within public rights-of-ways or existing infrastructure corridors whenever possible and be coordinated with government agencies to provide for compatible multiple uses.

**8.02 L. 1. b.** Utilities shall be located and designed to avoid damage or degradation to shoreline ecological function including wetlands, marshes, bogs and other swamps; important wildlife areas; and other unique and fragile areas.

**8.02 L. 1. c.** Underwater pipelines which transport material intrinsically harmful to aquatic life or potentially injurious to water quality, including sewer lines, shall be provided with automatic shut off valves at each end of the underwater segments.

**8.02 L. 1. d.** Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion and shoreline ecological function, including protection of water quality using Best Management Practices.

**8.02 L. 1. e.** Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

**8.02 L. 1. f.** The placing of utility lines shall not obstruct or hinder physical or visual access to shoreline areas from public right-of-ways or public use areas. Utilities shall be placed landward of the primary structural setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible,

utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.

**8.02 L. 1. g.** Except where no other feasible alternative exists, utilities that require continued maintenance and therefore disrupt ecological processes (i.e. electrical transmission lines that require removal of undergrowth) shall not be placed in Vegetation Conservation areas (between OHWM and structure setback).

## **8.02 L. 2. Utilities - Designation Specific Regulations**

**8.02 L. 2. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 L. 2. a. 1)** Conditional use permit.

## **8.02 M. Recreation**

### **8.02 M. 1. Recreation – General Regulations**

**8.02 M. 1. a.** Shoreline recreational development is given priority and shall be primarily related to access to, enjoyment and use of the water and shorelines of the state.

**8.02 M. 1. b.** State-owned shorelines are particularly adapted to providing ecological study areas and other recreational uses for the public and shall be given special consideration when developing recreational uses in shoreline areas.

**8.02 M. 1. c.** The location, design and operation of shoreline recreational developments shall be primarily related to access, enjoyment and use of the water and shorelines of the state, consistent with the comprehensive plan and recreation plan of the local government with jurisdiction. All such uses shall not result in a net loss of shoreline function.

**8.02 M. 1. d.** Commercial recreational development shall comply with the provisions for commercial development Section 8.02 F Commercial.

**8.02 M. 1. e.** Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas shall be set back from the ordinary high water mark as specified in the Development Standards Table (Table 8.1), unless it can be shown that such facilities are water dependent and the planned location will not adversely affect shoreline functions. Such facilities may be linked to the shoreline by walkways.

**8.02 M. 1. f.** Shoreline recreational developments shall maintain, and, when feasible, enhance or restore desirable shoreline features including those that contribute to shoreline ecological functions and processes, scenic vistas, and aesthetic values. Removal of healthy native vegetation to enhance views shall be allowed only in compliance under Section 8.02 K. 1. u 5-7).

**8.02 M. 1. g.** Recreational uses shall be designed to complement their environment and surrounding land and water uses.

**8.02 M. 1. h.** No recreational buildings or structures shall be built over water, other than water-dependent and/or public access structures such as piers, docks, bridges, boardwalks, or viewing platforms.

**8.02 M. 1. i.** Each development proposal shall include a landscape plan that uses native, or native compatible self-sustaining vegetation. Removal of on-site native vegetation shall be limited to the minimum necessary for the permitted development or structures.

**8.02 M. 1. j.** For recreational uses such as golf courses or parklands that require the use of fertilizers, pesticides, or other chemicals, the applicant shall specify the methods that will be used to ensure that the use complies with all provisions of this master program, including preventing the chemicals from entering adjacent water bodies or wetlands. Chemical-free buffer strips may be required at the discretion of the Administrator.

**8.02 M. 1. k.** Recreational uses shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths, where those facilities will not result in loss of shoreline ecological functions.

**8.02 M. 1. l.** Recreational uses shall include adequate provisions for water supply, sewage, garbage disposal, and fire protection.

**8.02 M. 1. m.** Recreational development shall include adequate provisions, such as screening, buffer strips, fences, and signs, to buffer adjacent private property and natural areas and protect the value and enjoyment of those sites.

**8.02 M. 1. n.** Trails and paths on steep slopes shall be located, designed, and maintained to protect bank stability.

**8.02 M. 1. o.** Recreational uses shall be consistent with local comprehensive plan provisions and zoning regulations and required buffers and use setbacks in Section 8.01 A. 16 and critical area protection regulations in Appendix C.

**8.02 M. 1. p.** Non-motorized recreation trails (for example, a riverfront trail running parallel to the shoreline) shall be allowed in both Zone 1 and Zone 2 Buffers provided they are consistent with the local comprehensive plan and zoning regulations, including development and design standards. Non-motorized, non-impervious surface trails no greater than 4 feet in width to provide shoreline physical access to the water's edge may be allowed in the Zone 1 Vegetation Buffer through submittal of a vegetation planting plan, mitigation management plan and compliance with mitigation sequencing standards found in Appendix C.

## **8.02 M. 2. Recreation - Designation Specific Requirements:**

### **8.02 M. 2. a. Aquatic, Natural**

**8.02 M. 2. a. 1)** Recreation development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation – Conditional Use Permit.

### **8.02 M. 2. b. Urban Conservancy**

**8.02 M. 2. b. 1)** High impact recreation development - Conditional Use Permit.

**8.02 M. 2. b. 2)** Low impact recreation development - Substantial Development Permit.

**8.02 M. 2. c. Shoreline Recreation, Shoreline Residential and High Intensity**

**8.02 M. 2. c. 1)** Substantial Development Permit.

## **8.02 N. Residential Development**

### **8.02 N. 1. Residential Development – General Regulations**

**8.02 N. 1. a.** No lot for residential use shall be created that would not accommodate a buildable area, based on the zoning district, comprehensive plan designation and critical areas regulations, that meets the minimum building setback and other standards for the shoreline designation in which the lot is located.

**8.02 N. 1. b.** No lots or plats will be approved that do not meet the minimum requirements of this SMP.

**8.02 N. 1. c.** Plats and subdivisions shall not rely upon new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

**8.02 N. 1. d.** In its review of proposals for multi-lot and or multi-unit subdivisions and/or planned developments and other large developments, the city or town with jurisdiction shall require and use information about the impacts of the proposed development on shoreline ecological functions, including the cumulative impacts of exempt uses and activities within the development over time, and ensure there will be no net loss of shoreline function.

**8.02 N. 1. e.**

**8.02 N. 1. e. 1)** All single family and multi-unit residential developments shall comply with the buffer, setback, bulk and dimensional standards set forth in Table 8.1 of this SMP, and shall be authorized only after approval of a site development plan, indicating the total disturbance footprint as required by this section. The disturbance footprint shall include:

- i.** all driveways and parking areas;
- ii.** wildfire defensible space;
- iii.** building footprint(s);
- iv.** water access pathway location and width, not to exceed 4 feet;
- v.** view access corridor, if any;
- vi.** location of storage and staging of materials and equipment during construction;
- vii.** location of well and septic systems, if applicable;

**viii.** Location of public access, joint use or community recreational facilities if applicable.

**8.02 N. 1. e. 2)** The construction of home(s) (inside the buffer or utilizing a buffer reduction) shall require development of a shoreline pre-application review packet. The review of the assessment may require the applicant to prepare a mitigation management plan as specified in Appendix C of this SMP.

**8.02 N. 1. e. 3)** Individual or multi-family on-site wastewater treatment systems serving allowed uses in conformance with this SMP shall be subject to regulations administered by the Okanogan County Health District.

**8.02 N. 1. e. 4)** Large On-site Sewage Systems (LOSS) shall be subject to regulations administered by the Washington State Departments of Ecology, or Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within jurisdiction of this SMP.

**8.02 N. 1. e. 5)** All individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drain fields or alternative systems approved and inspected by the Okanogan County Health District, the Washington State Department of Ecology, or Department of Health, shall be located landward of designated riparian and buffers within jurisdiction of this SMP.

**8.02 N. 1. e. 6)** In instances where shoreline buffers designated in Table 8.1 of this SMP are less than 100 feet as measured on a horizontal plane, perpendicular to the shoreline, all sewage system components shall be located a minimum of 100 feet from the ordinary high water mark (unless lot size/configuration is such that the applicant obtains an approval from the Okanogan County Health District to no less than 75ft from the ordinary high water mark). Where the lot size in combination with health district requirements would cause the development or use to need a variance from the standards established in table 8.1, the applicant shall be required to connect to town water and sewer.

**8.02 N. 1. e. 7)** Location of the landward boundary of shoreline buffers as specified in Table 8.1 shall be approved by county or Washington Department of Ecology staff, and marked with clearly visible means sufficient to prevent damage to any portion of the buffer and its topography, soils or vegetation.

**8.02 N. 1. e. 8)** Prior to any clearing, construction or other activity within the approved disturbance footprint, the landward boundary of buffers specified in Table 8.1 shall be marked with permanent or temporary fencing approved by the county administrator, sufficient to prevent any incidental incursion into, or disturbance to the buffer, by equipment, vehicles, building materials or other means.

**8.02 N. 1. e. 9)** Whenever feasible while meeting Okanogan County Health District or Washington State Health Department standards, all components of on-

site sewage treatment systems, including subsurface soil absorption systems, shall be located landward of the residential structures they serve.

**8.02 N. 1. e. 10)** Buildings constructed in areas of 20 percent or greater slope, or slide-prone areas, shall conform to the requirements for geologically hazardous areas of the Critical Areas Ordinance Appendix C.

**8.02 N. 1. e. 11)** Except for minimal pathways no greater than 4 feet in width to afford access to allowed docks, boat access or swimming areas or to remove hazard trees as set forth applicable sections of this SMP native plant communities and species in buffers specified in Zone 1 Table 8.1 shall not be disturbed for any reason.

**8.02 N. 1. e. 12)** New parcels/lots created through land division within jurisdiction of this SMP shall accomplish the following:

- i. Plats and subdivisions as regulated elsewhere in this SMP must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
- ii. Plats and subdivisions as regulated elsewhere in this SMP must be designed, configured and developed in a manner that assures that no need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas (E.g., Slopes-greater than 20%, Channel Migration Zones- See Appendix G). New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
- iii. Plats and subdivisions as regulated elsewhere in this SMP must be designed and configured such that a buildable area is available on each lot in conformance with Comprehensive Plan as well as required shoreline and critical area buffer/setbacks, unless a specific, unbuildable lot is being created as an shoreline open space/conservancy lot and is so recorded

## **8.02 N.2 Residential Development - Designation Specific Regulations**

### **8.02 N. 2. a. Aquatic, Natural**

**8.02 N. 2. a. 1)** Residential Development is prohibited.

**8.02 N. 2. a. 2)** Subdivisions - CUP

### **8.02 N. 2. b. Urban Conservancy**

**8.02 N. 2. b. 1)** Subdivisions (both short and long) shall be subject to a conditional use permit and require the division to be processed as a planned development under local zoning and platting regulations.

**8.02 N. 2. b. 2)** Residential development- CUP

**8.02 N. 2. c. Shoreline Recreation, Shoreline Residential and High Intensity**

**8.02 N. 2. c. 1)** Exempt for Single Family Residences built for applicant's own use or for the use by his/her family.

**8.02 N. 2. c. 2)** All other residential development is subject to a Substantial Development Permit.

## **8.02 O. Signage**

### **8.02 O. 1. Signage – General Regulations**

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment; and to temporary and interpretive signs. Highway, public information, and temporary signs are addressed in the Use Chart.

**8.02 O. 1. a.** All signs shall comply with applicable regulations of the city or town in which the sign is located and any other applicable regulations (e.g., Scenic Vistas Act).

**8.02 O. 1. b.** Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Except as necessary for safe navigation, moorage, or public safety signs shall be located landward of the required building setback.

**8.02 O. 1. c.** All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

**8.02 O. 1. d.** No signs shall be placed on trees or other natural features.

**8.02 O. 1. e.** Off premises and non-appurtenant signs shall not be permitted, with the following exception: temporary signs and interpretive signs related to shoreline uses and ecological functions shall be allowed where they comply with the other policies of this SMP and, in the case of temporary signs, where adequate provisions are made for timely removal.

**8.02 O. 1. f.** No sign shall have a surface area larger than 32 square feet.

**8.02 O. 1. g.** Signs shall be lit by direct or indirect lighting only. Signs lit by internal sources are prohibited.

### **8.02 O. 2. Signage - Designation Specific Regulations**

#### **8.02 O. 2. a. Aquatic and Natural**

**8.02 O. 2. a. 1)** All outdoor advertising, signs and billboards shall be prohibited.

#### **8.02 O. 2. b. Shoreline Residential and Urban Conservancy**

**8.02 O. 2. b. 1)** All outdoor advertising, signs and billboards shall be prohibited except:

- i.** Those signs necessary to protect the health, safety, and welfare of the public.
- ii.** Those necessary to give direction or identify and/or interpret a natural or cultural feature.
- iii.** Permitted signs shall not exceed 6 square feet in surface area.
- iv.** Permitted signs shall not exceed 6 feet in height.

- v. Outdoor lighting of signs in the Urban Conservancy designation shall be prohibited

**8.02 O. 2. c. Shoreline Recreation and High Intensity**

- 8.02 O. 2. c. 1)** Outdoor advertising, signs and billboards are allowed subject to a substantial development permit and shall not exceed 36 sq ft.
- 8.02 O. 2. c. 2)** No sign shall exceed the highest point of the roofline.

**8.02 P. Transportation**

**8.02 P. 1. Transportation – General Regulations**

Transportation development serving non-water dependent uses should avoid the shoreline area where possible to avert damage to shoreline ecological function. Transportation development serving water oriented and water related uses shall be considered as part of that use and subject to the following provisions:

**8.02 P. 1. a.** Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

**8.02 P. 1. a. 1)** New roads or road expansions should not be built within shoreline jurisdiction, unless other options are unavailable and infeasible. Design of roadways through shoreline areas should occupy the least narrow horizontal profile possible to convey traffic in a safe manner measured from ditch to ditch or shoulder to shoulder (whichever is largest) to minimize the footprint of roadway.

**8.02 P. 1. a. 2)** Stormwater runoff from roadways should be contained using Best Management Practices

**8.02 P. 1. a. 3)** De-icing, salting, and graveling of roads should be conducted in accordance with Best Management Practices.

**8.02 P. 1. a. 4)** Surfacing materials should not input or erode sediment into waterways.

**8.02 P. 1. b.** Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

**8.02 P. 1. c.** Circulation system planning shall include integrated corridors for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

**8.02 P. 1. d.** Transportation and circulation systems shall be included as part of a development or land use permit and be subject to lot coverage and clearing and grading standards set forth in Table 8.3.

**8.02 P. 2. Transportation – Designation Specific Regulations**

**8.02 P. 2. a. Aquatic**

**8.02 P. 2. a. 1)** same as in the adjacent shoreline designation landward of the OHWM

**8.02 P. 2. b. Natural**

**8.02 P. 2. b. 1)** Conditional Use Permit

**8.02 P. 2. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.02 P. 2. c. 1)** Substantial Development Permit.

## ***TABLE 8.2 SHORELINE USE & ACTIVITY TABLE***

All uses and activities must comply with all applicable provisions of this Shoreline Master Program (SMP), including the General, Shoreline Modification, Use-Specific, and Shoreline Designation-Specific regulations in this Chapter. Uses and activities not listed in the Shoreline Use and Activity Chart may be allowed (with a shoreline exemption, substantial development permit, or conditional use permit), subject to approval by the Administrator, if they comply with the standards in this section and with any regulations that apply to similar uses. All shoreline permits and exemptions are subject to conditions providing for maintenance, enhancement, and/or restoration of shoreline functions.

A = Allowed – requires exemption<sup>20</sup>; or, Substantial Development or Conditional Use Permit, depending on fair market value and/or intensity of use or activity, or designation-specific requirements

SDP = Shoreline Substantial Development Permit required.

CUP = Shoreline Conditional Use Permit required.

X = Prohibited use

S = Same as in adjacent shoreline designation landward of the OHWM (applicable to areas designated Aquatic only)

N/A = Not Applicable

(–) = Subject to limitations.

(+) = Subject to conditions.

(\*) = Subject to exceptions.

(a) In the event that there is a conflict between the use(s) identified in Table 8.2 and the policies or regulations in Chapters 6, 7, or 8, the policies and regulations shall apply.

(b) Aquatic: Water-dependent use only, subject to the use and development regulations of the abutting upland shoreline area designation.

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<sup>20</sup> - exempt uses and activities are defined by statute, see definitions in Chapter 2.

**Table 8.2 Use and Activity Chart<sup>(a)</sup>**

Uses and Activities	Aquatic <sup>(b)</sup>	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
<b><i>Agriculture (8.02 B)</i></b>						
Grazing/Cultivation/Orchards	X	X	A	A	A	A
Agricultural Buildings	X	X	A	A	A	A
Feedlots (CAFOS/AFOS)	X	X	X	X	X	X
Conversion from non-agricultural land to agricultural use	X	X	SDP	CUP	SDP	CUP
<b><i>Archaeological Areas, Scientific, Educational and Historic Sites (8.02 C)</i></b>						
Archaeological Areas, Scientific, Educational and Historic Sites	A	A	A	A	A	A
<b><i>Aquaculture (8.02 C)</i></b>						
Floating Net Pen type & Accessory structures	CUP	CUP	SDP	CUP	SDP	SDP
On shore, confined types of facilities & Accessory structures	CUP	CUP	SDP	CUP	SDP <sub>21</sub>	SDP
<b><i>Boating Facilities (8.02 E)</i></b>						
Marinas	S	X	CUP	CUP	CUP	CUP
Piers and Docks	S	X	SDP	SDP	SDP	SDP
Covered Moorage (Boat Garages)	X	X	X	X	X	X
Commercial Wet Moorage	S	X	CUP	X	X	CUP
Boat lifts	S	X	SDP	SDP	SDP	SDP
Commercial dry boat storage	SDP	X	SDP	X	X	SDP
<b><i>Boat Launch Ramps</i></b>						
Commercial (private or public)	S	X	SDP	X	X	SDP
Public	S	X	SDP	SDP	CUP	SDP
Private (paved, for motorized craft)	S	X	X	X	X	X
Private Hand launch, sand or cobble construction)	SDP	SDP	SDP	SDP	SDP	SDP
Mooring buoys/float plane moorage accessory to permitted moorage	CUP	CUP	SDP	CUP	SDP	SDP
Floats	CUP	CUP	SDP	CUP	SDP	CUP
<b><i>Commercial (8.02 F)</i></b>						

<sup>21</sup> - Requires minimum parcel size of 2 acres.

Uses and Activities	Aquatic <sup>(b)</sup>	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
Water dependent	CUP	X	SDP	X	SDP	SDP
Water-related/water-enjoyment (oriented)	X	X	SDP	X	SDP	SDP
Non-water oriented	X	X	X	X	X	SDP
<b>Mining (8.02 H)</b>						
Surface Mining	S	X	X	X	X	X
Other Mining	S	X	X	X	X	X
Mineral Prospecting and Placer Mining <sup>22</sup>	A	A	A	A	A	A
<b>Municipal Uses (8.02 I)</b>						
Water dependent	SDP	X	SDP	SDP	SDP	SDP
Water oriented	X	X	SDP	SDP	SDP	SDP
Non-water oriented	X	X	CUP	CUP	CUP	CUP
<b>Signage (8.02 O)</b>						
Commercial Signs – on site advertising	X	X	SDP	X	X	SDP
Commercial Signs- off-site advertising	X	X	X	X	X	X
Public Highway, Safety, Directional and Informational Signs	CUP	CUP	SDP	SDP	SDP	SDP
<b>Residential (8.02 N)</b>						
Exempt single family dwellings <sup>23</sup>	X	X	A	CUP	A	A
Non-exempt single family dwellings (e.g. seasonal or year round rentals)	X	X	SDP	CUP	SDP	SDP
Multi-family	X	X	SDP	CUP	SDP	SDP
Subdivision	CUP	CUP	SDP	CUP	SDP	SDP
<b>Utilities (8.02L &amp; A)</b>						
Primary (8.02 L)	CUP	CUP	CUP	CUP	CUP	CUP
Accessory (8.02 A)	X <sup>24</sup>	A	A	A	A	A
<b>Industrial (8.02 G)</b>						
Water-dependent	CUP S	X	X	X	X	SDP
Water-related	X	X	X	X	X	SDP

<sup>22</sup> - If performed in compliance with WDFW Gold and Fish Pamphlet, all others CUP

<sup>23</sup> - RCW 90.58.030(3)(e)(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence (inclusive of accessory utilities) for his own use or for the use of his or her family, which residence does not exceed a height of thirty feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter (SEE WAC 173-26-211(5)(a)(ii)(C))

<sup>24</sup> - Accessory utilities shall be prohibited except those required to serve a permitted water dependent use, which shall require a conditional use permit.

Uses and Activities	Aquatic <sup>(b)</sup>	Natural	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
Nonwater Oriented	X	X	X	X	X	X
<b><i>Parking (8.02 J)</i></b>						
As a primary use	X	X	X	X	X	X
Appurtenant to a permitted use	X	X	A	A	A	A
<b><i>Shoreline Modifications (8.03)</i></b>						
Dikes/levees	CUP	X	CUP	CUP	CUP	CUP
Breakwaters, groins and jetties	CUP	X	CUP	CUP	CUP	CUP
Dredging and Material Disposal <sup>25</sup>	CUP	CUP	CUP	CUP	CUP	CUP
Filling <sup>26</sup>	CUP	X	CUP	CUP	CUP	CUP
Clearing and Grading <sup>27</sup>	X	X	CUP	CUP	CUP	CUP
Bulkheads and revetments	X	X	CUP	CUP	CUP	CUP
Shoreline Restoration and Enhancement <sup>28</sup>	S	SDP	SDP	SDP	SDP	SDP
<b><i>Shoreline Stabilization(8.03 E)</i></b>						
Hardening, Structural approaches	X	X	CUP	CUP	CUP	CUP
Bioengineering approaches	SDP	SDP	SDP	SDP	SDP	SDP
Shoreline Restoration and Enhancement <sup>18</sup>	S	SDP	SDP	SDP	SDP	SDP
<b><i>Transportation (8.02 P)</i></b>						
Roads and Railroads	S	CUP	SDP	SDP	SDP	SDP
<b><i>Recreation (8.02 M)</i></b>						
High Intensity	S	CUP	SDP	CUP	SDP	SDP
Low Intensity / Passive	S	CUP	SDP	SDP	SDP	SDP

<sup>25</sup> - All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.

<sup>26</sup> - All fill is limited to the minimum amount required for existing permitted or proposed allowed uses, except as allowed in 8.03 D. 5.

<sup>27</sup> - Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another property or public right of way.

<sup>28</sup> - Restoration and enhancement projects may be exempted if part of an approved recovery plan.

### **8.03 Shoreline Modification Activities**

Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, dredging (shoreline modification) to allow for a marina (boating facility use).

#### **8.03 A. General (applicable in all shoreline designations)**

**8.03 A. 1.** All shoreline modification activities not in support of an existing conforming use or other allowed use are prohibited, unless it can be demonstrated, that such activities are necessary to protect primary structures and in the public interest or are for the maintenance, restoration or enhancement of shoreline ecological functions.

**8.03 A. 2.** Shoreline modifications shall result in no net loss of shoreline ecological functions. The number and extent of shoreline modifications shall be limited to the minimum required.

**8.03 A. 3.** Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions shall be allowed. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. For example, planting vegetation that will stabilize the shoreline is preferred rather than a concrete bulkhead.

**8.03 A. 4.** Ecological impacts of shoreline modifications shall be mitigated in conformance with Critical Areas Regulations in Appendix C.

**8.03 A. 5.** All shoreline modification activities must conform to Section 8.01 General Regulations and the provisions for the appropriate shoreline designation.

#### **8.03 B. Clearing and Grading**

**8.03 B. 1.** Clearing and grading shall be addressed and identified in the permit or exemption application for the shoreline use or activity with which it is associated.

**8.03 B. 2.** Clearing or grading within required Zone 1 Vegetation and Zone 2 Use buffers and/or wetland buffers shall comply with the requirements of Section 8.01 A. 16. and Table 8.3.

**8.03 B. 3.** No clearing or grading shall be initiated before the permit, exemption or variance is issued.

**8.03 B. 4.** Existing native riparian vegetation shall be retained whenever possible.

**8.03 B. 5.** Grading permits:

**8.03 B. 5. a.** A grading permit issued by the local government with jurisdiction shall be required in the following situations:

**8.03 B. 5. b.** Where more than 50 cubic yards of material will be moved within a shoreline area for any portion of a construction project including foundations or septic installations; or

**8.03 B. 5. c.** Any clearing or grading within building setbacks or buffers.

**8.03 B. 5. d.** Where clearing and grading will modify a percentage of a site's shoreline area landward of the building setback that is greater than the percentage or square footage (whichever is greater) as specified in the following table.

**8.03 B. 5. e.** An increase of up to 25% cleared or graded area may be permitted through the submittal of a planting plan, critical areas report and mitigation plan that demonstrates the grading and clearing will not impact or increase the impact to shoreline ecological function or value.

**Table 8.3 Shoreline Designation Specific Clearing and Grading Standards<sup>29</sup>**

Shoreline Designation	Percent of site located within shoreline jurisdiction that may be cleared and/or graded outside required buffer zones <sup>30</sup>
High Intensity	50%
Shoreline Residential	50%
Urban Conservancy	15%
Shoreline Recreation	50%
Natural	5%
Aquatic	N/A

**8.03 B. 6.** In its review of clearing and grading proposals, the local government with jurisdiction shall require and utilize a clearing and grading plan that addresses species removal, replanting, irrigation, erosion and sedimentation control, and plans for protecting shoreline resources from harm.

**8.03 B. 7.** Grading of a development site shall not alter natural drainage patterns in manner that would increase the rate or quantity of surface run-off, stormwater BMPs may be required.

**8.03 B. 8.** Immediately upon completion of the construction or maintenance activity, remaining cleared areas shall be restored to a naturalistic condition using compatible, self-sustaining vegetation in accordance with Section 8.03 G Vegetation Conservation.

**8.03 B. 9.** Clearing by hand-held equipment of invasive non-native vegetation on the State Noxious Weed List is permitted in shoreline areas provided the disturbed area is promptly replanted with vegetation from the recommended list (Appendix E) or if the site

<sup>29</sup> - The standards in the table provide for the maximum percentage that may be cleared outside of Vegetation and Use Buffers.

<sup>30</sup> - The percentages represent the maximum allowable with an increase of up to 25% permitted subject to a critical areas report and mitigation management plan that considers present ecological function, cumulative impacts of the development and restoration opportunities, both on and off-site, DOES NOT INCLUDE CLEARING WITHIN THE ZONE 1 or ZONE 2 BUFFERS.

will fully re-vegetate with plants that will support healthy shoreline function on its own within three growing seasons.

**8.03 B. 10.** All shoreline development and activity shall use applicable BMPs from Eastern Washington Stormwater Management to minimize increases in surface water runoff that may result from clearing and grading activity.

**8.03 B. 11.** Soil stabilization associated with clearing and grading shall, whenever feasible, use bioengineering or other soft stabilization techniques.

**8.03 B. 12.** Any significant placement of materials from off of the site, or substantial creation or raising of dry upland, shall be considered filling and shall comply with the fill provisions of Section 8.03 D Fill.

**8.03 B. 13.** Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another developed property or developed public right of way.

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

**8.03 C. 1.** The Town shall require and use the following information in its review of shoreline dredging and dredge material disposal proposals:

**8.03 C. 1. a.** Dredging volumes, methods, schedules, frequency, hours of operation, and procedures.

**8.03 C. 1. b.** Analysis of material to be dredged in compliance with Model Toxics Control Act.

**8.03 C. 1. c.** Method of disposal, including the location, size, capacity, and physical characteristics of the disposal site, transportation methods and routes, hours of operation, and schedule.

**8.03 C. 1. d.** Stability of bedlands adjacent to the proposed dredging site.

**8.03 C. 1. e.** Stability of geologically hazardous areas in the vicinity of the proposed dredging site.

**8.03 C. 1. f.** Assessment of water quality impacts.

**8.03 C. 1. g.** Habitat assessment meeting the standards prescribed for Fish and Wildlife Habitat Conservation Areas in Critical Areas regulations of appendix C, including migratory, seasonal, and spawning, migration, wetland and riparian use areas.

**8.03 C. 2.** In evaluating permit applications for any dredging project, the Administrator and/or appropriate hearing or review body shall consider the need for and adverse effects of the initial dredging, subsequent maintenance dredging, and dredge disposal. Dredging and dredge material disposal shall only be permitted where it is demonstrated that the proposed actions will not:

**8.03 C. 2. a.** Result in significant and/or on-going damage to water quality, fish, or other biological elements;

**8.03 C. 2. b.** Adversely alter natural drainage and circulation patterns, or significantly reduce flood storage capacities;

**8.03 C. 2. c.** Affect slope stability; or

**8.03 C. 2. d.** Otherwise damage shoreline or aquatic resources.

**8.03 C. 3.** Proposals for dredging and dredge disposal shall prepare a mitigation management plan to protect fish and wildlife habitat in compliance with Appendix C to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials, or toxic substances; dissolved oxygen depletion; or disruption of food chains.

**8.03 C. 4.** Dredging and dredge material disposal shall not occur in wetlands except as authorized by Conditional Use Permit in compliance with Appendix C with conditions providing that valuable functions of the wetland, such as wildlife habitat and natural drainage, will not be diminished.

**8.03 C. 5.** Dredging waterward of the ordinary high water mark shall be allowed by conditional use permit only when:

**8.03 C. 5. a.** It has been proven that the development cannot be sited elsewhere and has been designed to avoid and minimize new and maintenance dredging (WAC 173-26-231(3)(f))

**8.03 C. 5. b.** For navigation or existing navigational access;

**8.03 C. 5. c.** In conjunction with a conforming allowed water-dependent use of water bodies or adjacent shorelands;

**8.03 C. 5. d.** As part of a habitat management plan that has been approved by the Town and other entity with jurisdiction, and has been accepted by the Washington Department of Fish and Wildlife or other agency with jurisdiction;

**8.03 C. 5. e.** To improve water quality;

**8.03 C. 5. f.** For mining, mineral extraction, mineral prospecting and placer mining as provided in Section 8.02 H Mining;

**8.03 C. 5. g.** In conjunction with a bridge or a navigational channel, basin, or structure for which there is a documented public need and where other feasible sites or routes do not exist; or

**8.03 C. 5. h.** To improve water flow and/or manage flooding only when consistent with an approved flood and/or stormwater comprehensive management plan in conjunction with a habitat mitigation management plan.

**8.03 C. 6.** Any impacts of dredging that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

**8.03 C. 7.** Dredging shall use techniques that cause the minimum dispersal and broadcast of bottom material.

**8.03 C. 8.** Dredging for the primary purpose of obtaining material for fill is prohibited, except when the material is necessary for the restoration of ecological functions. The fill must be

associated with a significant habitat enhancement project that is listed as part of a regional or watershed-scale plan, MTCA or CERCLA habitat restoration project. When allowed, the site where the fill is to be placed must be located waterward of the OHWM (WAC 173-26-231(3)(f)) and conducted in accordance with the dredged material management program of the department of natural resources.

**8.03 C. 9.** Dredging to construct canals or basins for boat moorage or launching, water ski landings, swimming holes, and similar uses shall only be permitted as a conditional use and shall include a habitat enhancement/mitigation plan.

**8.03 C. 10.** Disposal of dredged materials shall be accomplished at approved contained upland sites in compliance with all Federal, State and local regulations.

**8.03 C. 11.** Depositing dredge materials in water areas shall be allowed only by Conditional Use Permit, for one or more of the following reasons:

**8.03 C. 11. a.** For wildlife habitat improvement.

**8.03 C. 11. b.** To correct problems of material distribution adversely affecting fish resources.

**8.03 C. 11. c.** For permitted enhancement of beaches that provide public access, where it has been conclusively demonstrated that no net loss of shoreline ecological functions will result or for public safety.

**8.03 C. 12.** Use of dredged material for beach enhancement shall be conducted so that:

**8.03 C. 12. a.** Erosion from the disposal site is minimized. Erosion of the dredged material shall not smother emergent vegetation or other shallow productive areas.

**8.03 C. 12. b.** To the extent possible, the volume of dredged material and frequency of disposal maintain a stable beach profile. Dredged material shall be graded as a uniform slope and contoured to reduce cove and peninsula formation and to preclude stranding of juvenile fish.

**8.03 C. 13.** Land disposal sites shall be replanted as soon as feasible, and in no case later than the next planting season, in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Vegetation from the recommended list (Appendix E) or other species authorized by the Town shall be used. Native plants are preferred. Plants that may compromise shoreline values are prohibited. The permit application planting plan submittal shall identify the size, location, and species of plants that will be used. The agency or developer responsible for the land disposal shall also be responsible for maintaining the vegetation as established in the approved mitigation management plan.

**8.03 C. 14.** Proposals for disposal in the channel migration zone is discouraged and only allowed by Conditional Use Permit (WAC 173-26-231(3)(f)). Disposal in other shoreline areas must provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning that benefits the shoreline resources.

**8.03 C. 15** **Designation Specific Regulations.**

**8.03 C. 15. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.03 C. 15. a. 1)** All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a Conditional Use Permit.

**8.03 D. Fill**

**8.03 D. 1.** The Town shall require and use the following information in its review of fill proposals and the applicant shall submit the following on their permit or exemption application:

**8.03 D. 1. a.** Proposed use of the fill area.

**8.03 D. 1. b.** Physical characteristics, such as chemical and biological composition if appropriate, depending on where it is to be placed or will be subject to inundation.

**8.03 D. 1. c.** Source of the fill material.

**8.03 D. 1. d.** Method of placement and compaction.

**8.03 D. 1. e.** Location of fill relative to existing drainage patterns and wetlands.

**8.03 D. 1. f.** Location of the fill perimeter relative to the ordinary high water mark.

**8.03 D. 1. g.** Perimeter erosion control or stabilization measures.

**8.03 D. 1. h.** Type of surfacing and runoff control devices.

**8.03 D. 2.** Fill waterward of the ordinary high water mark or in wetlands shall only be permitted as a conditional use in all shoreline designations, and only when necessary for the support of one of the following purposes:

**8.03 D. 2. a.** water-dependent use,

**8.03 D. 2. b.** public access,

**8.03 D. 2. c.** cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,

**8.03 D. 2. d.** disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources,

**8.03 D. 2. e.** expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project.

**8.03 D. 2. f.** Fill in wetlands must comply with the wetlands provisions of the Critical Areas regulations in Appendix C and shall result in no net loss of wetland area in functions including lost time when the wetland does not perform the function and is subject to mitigation in this SMP.

**8.03 D. 3.** Pier or pile support shall be utilized whenever feasible in preference to

filling. Fills for approved road, bridge or navigational structure development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.

**8.03 D. 4.** Fills are prohibited in floodplains except where it can be clearly demonstrated that the geo-hydraulic characteristics and floodplain storage capacity will not be altered to cause increased flood hazard or other damage to life or property in excess of accepted standards provided by state and/or federal agencies.

**8.03 D. 5.** Fills are prohibited in floodways, and channel migration zone areas (See CMZ Map Appendix G) except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use, as specified in Section 8.03 D 2 above, and where permitted by the local jurisdiction's Critical Areas regulations and any other relevant regulations or plan (e.g., flood hazard prevention regulations or Comprehensive Flood Hazard Management Plan).

**8.03 D. 6.** Fills shall be permitted only when it is demonstrated that the proposed action will not:

**8.03 D. 6. a.** Result in significant damage to water quality or fish and wildlife habitat;

**8.03 D. 6. b.** Adversely affect natural drainage and circulation patterns or significantly reduce flood water capacities;

**8.03 D. 6. c.** Affect slope stability; or

**8.03 D. 6. d.** Otherwise damage shoreline or aquatic resources.

**8.03 D. 7.** Placing fill in water bodies or wetlands to create usable land for shoreline development is prohibited and shall not be used to calculate parcel size proposed for subdivision.

**8.03 D. 8.** Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetated buffer areas, or other methods, and shall be adequately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the fill and shall be maintained until self-sustaining. The design shall incorporate natural-appearing and self-sustaining control methods unless they can be demonstrated to be infeasible due to existing environmental conditions such as currents and weather.

**8.03 D. 9.** Fill materials shall be sand, gravel, rock, soil, or similar materials. Use of polluted dredge spoils, solid waste, and sanitary landfill materials is prohibited.

**8.03 D. 10.** Fills shall be designed to allow surface water penetration into ground water supplies where such conditions existed prior to fill. Fills shall not be permitted in aquifer recharge areas if they would have the effect of preventing percolation of the water.

**8.03 D. 11.** The timing of fill construction shall be regulated to result in no net loss of shoreline ecological functions, including water quality and aquatic life.

**8.03 D. 12.** Fill on dry land shall not result in substantial changes to patterns of surface

water drainage from the project site and onto adjacent properties; within shoreline areas; into aquatic areas; or onto steep slopes or other erosion hazard areas.

**8.03 D. 13. Designation specific regulations.**

**8.03 D. 13. a. Aquatic, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**

**8.03 D. 13. a. 1)** All fill is prohibited except the minimum amount required for existing permitted or proposed allowed uses.

**8.03 D. 13. a. 2)** All permitted fill shall require a Conditional Use Permit.

**8.03. D. 13. b. Natural**

**8.03 D. 13. b. 1)** Prohibited.

**8.03 E. Shoreline Stabilization (See WAC 173-26-231(3)(a)(iii))**

**8.03 E. 1.** New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivisions shall be reviewed to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

**8.03 E. 2.** New structural stabilization measures shall not be allowed<sup>31</sup> except to protect an existing primary structure when all of the conditions below apply:

**8.03 E. 2. a.** New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

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

**8.03 E. 3.** New shoreline stabilization for water-dependent development shall not be allowed except when all of the conditions below apply:

**8.03 E. 3. a.** The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

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<sup>31</sup> Except for approved habitat restoration or enhancement projects

**8.03 E. 3. b.** Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

**8.03 E. 3. c.** The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

**8.03 E. 3. d.** The erosion control structure will not result in a net loss of shoreline ecological functions.

**8.03 E. 4.** New structural stabilization measures shall not be allowed for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW except when all of the conditions below apply:

**8.03 E. 4. a.** Nonstructural measures, planting vegetation or installing on-site drainage improvements are not feasible or not sufficient;

**8.03 E. 4. b.** The erosion control structure will not result in a net loss of shoreline ecological functions.

**8.03 E. 5.** Use of shoreline stabilization measures to create new land is prohibited including creation of new lots that will require shoreline stabilization in order to allow development.

**8.03 E. 6.** New non-water-dependent development, including exempt and non-exempt single-family residences, that include structural shoreline stabilization shall not be allowed unless all of the following conditions apply:

**8.03 E. 6. a.** The need for shoreline stabilization is to protect the development from destruction due to erosion caused by natural processes, such as currents and waves, is demonstrated through a geotechnical report;

**8.03 E. 6. b.** The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation;

**8.03 E. 6. c.** Non-structural measures (such as placing the development farther from the shoreline), vegetative methods, or installing on-site drainage, are not feasible or not sufficient; and

**8.03 E. 6. d.** The stabilization will not cause a net loss of shoreline ecological functions.

**8.03 E. 7.** An existing shoreline stabilization structure may be replaced with a similar structure<sup>32</sup> if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

**8.03 E. 7. a.** The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

**8.03 E. 7. b.** Replacement walls or bulkheads shall not encroach waterward of the

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<sup>32</sup> Said replacement structure shall be engineered and designed to address the issues of the failure of the existing structure

ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

**8.03 E. 7. c.** Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

**8.03 E. 7. d.** For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

**8.03 E. 8.** A geotechnical report prepared to address the need to prevent potential damage to a primary structure shall address the town's standards for a critical areas report in Appendix C for geologically hazardous areas as well as issues below.

**8.03 E. 9.** Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.

**8.03 E. 10.** Hard armoring solutions shall not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three years as a result of shoreline erosion in the absence of hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

**8.03 E. 11.** Shoreline stabilization shall not be allowed for new uses if it would cause a net loss of shoreline ecological functions on the site, or within the watershed; or if it would cause significant ecological impacts to adjacent properties or shoreline areas. Those impacts include accelerated erosion of adjacent properties caused by the stabilization measures.

**8.03 E. 12.** New uses, including exempt uses, in areas above unstable slopes and moderately unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

**8.03 E. 13.** Where structural shoreline stabilization measures are shown to be necessary, the extent of the stabilization measures shall be limited to the minimum necessary.

**8.03 E. 14.** Stabilization measures shall be designed to minimize harm to and as much as possible restore ecological functions. Lost functions shall be mitigated to ensure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated to be insufficient to protect the primary structure or structures.

**8.03 E. 15.** Where stabilization is necessary to alleviate erosion caused by removal of vegetation, vegetative stabilization measures shall be the only stabilization measures allowed,

except where a report by a qualified professional is submitted. See Section 8.03 G Vegetation Conservation.

**8.03 E. 16.** Where feasible, ecological restoration and public access improvements shall be incorporated into public projects. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

**8.03 E. 17.** All applicable federal, state, and local permits shall be obtained and complied with in the construction of shoreline stabilization measures. All permits must be issued before any stabilization work takes place.

**8.03 E. 18. Designation Specific Regulations.**

**8.03 E. 18. a. Aquatic and Natural**

**8.03 E. 18. a. 1)** Dikes/levees, breakwaters, groins and jetties are prohibited.

**8.03 E. 18. b. Shoreline Recreation, Shoreline Residential and High Intensity**

**8.03 E. 18. b. 1)** Dikes/levees, breakwaters, groins and jetties shall require a Conditional Use Permit.

**8.03 E. 18. c. Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity**

**8.03 E. 18. c. 1)** Bioengineering approaches shall require a Substantial Development Permit.

**8.03 F. Bulkheads**

**8.03 F. 1.** All bulkheads are also subject to the provisions of Sections 8.01 A and 8.03 A, 8.03 E and 8.03 F.

**8.03 F. 2.** New or enlarged bulkheads for an existing principal structure or use, including residences and accessory structures, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared according to the local jurisdiction's standards for a critical areas report for geologically hazardous areas, that the principal structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage in a manner that does not degrade shoreline function before considering structural shoreline stabilization. The project design and analysis shall also evaluate vegetation enhancement as a means of reducing undesirable erosion. The geotechnical analysis shall demonstrate that the stabilization measure chosen is the least intrusive means that will be sufficient to achieve stabilization. The geotechnical analysis shall evaluate impacts that could pose stabilization problems to neighboring properties.

**8.03 F. 3.** An existing bulkhead may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents

or waves. In this case, demonstration of need does not necessarily require a geotechnical report; need must, however, be demonstrated using documentable information sources. The replacement structure shall be designed, located, sized, and constructed to ensure no net loss of ecological functions. Replacement bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to the date of adoption of this SMP, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. The Administrator may permit vegetative stabilization that restores ecological functions waterward of the ordinary high water mark.

**8.03 F. 4.** A bulkhead-type structure used to stabilize a dock may be permitted, but the size shall be limited to the minimum necessary for the dock. The stabilization structure shall not exceed 1' wider than the gangplank or pier structure on each side nor shall it exceed 6' landward in total width along the shoreline.

**8.03 F. 5. Designation Specific Regulations**

**8.03 F. 5. a. Aquatic, Natural**

**8.03 F. 5. a. 1)** Bulkheads shall be prohibited.

**8.03 F. 5. b. Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity**

**8.03 F. 5. b. 1)** Bulkheads shall require a Conditional Use Permit.

**8.03 G. Vegetation Conservation**

**8.03 G. 1.** Restoration or enhancement of any shoreline area that has been disturbed or degraded shall use plant materials from the recommended list (Appendix E) or other species approved by agencies or organizations operating within the jurisdiction, such as the departments of Ecology, County Extension, Fish and Wildlife or the Native Plant Society.

**8.03 G. 2.** Stabilization of erosion-prone surfaces along shorelines shall primarily use vegetative, non-structural means and shall comply with the provisions of Section 8.03 E. More intensive measures may be permitted providing the project will result in no net loss in shoreline function.

**8.03 G. 3.** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited. This does not preclude the removal of noxious weeds, provided a mitigation management plan is submitted and approved.

**8.03 G. 4** Weed abatement shall comply with all provisions of this SMP.

**8.03 G. 5.** Non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted in compliance with View Corridor provisions of Section 8.02 K. 1. u.

**8.03 G. 6.** Permits issued for projects in ecologically degraded areas shall include a condition that appropriate shoreline vegetation shall be planted or enhanced, to

contribute to the restoration of ecological processes and functions.

**8.03 G. 7.** If weather does not permit immediate restoration of disturbed areas, replanting shall be completed during the next planting season, and the soil shall be protected until replanting is complete.

**8.03 G. 8.** Vegetation from the recommended list (Appendix E) or other species authorized by the local government with jurisdiction shall be used. Native plants are preferred. Plants that may compromise shoreline values shall be prohibited. If necessary, a temporary sterile cover crop (e.g., a sterile non-persistent member of the grass family such as sterile Triticale, barley, or oats) shall be planted to prevent erosion during the establishment period; said cover crop shall be maintained until the permanent vegetation is sufficiently established to prevent erosion.

**8.03 G. 9.** Replanted areas shall be maintained until desired vegetation is well established (a minimum of three years). In the case of transportation, utility, or other capital facility construction, the agency or developer constructing the facility shall also be responsible for maintaining the vegetation until it is established.

## **Chapter 9**

# **Cumulative Impact Analysis**

### **Background**

RCW 90.58 requires updated SMPs to scientifically analyze the effects of new regulations on shoreline function. The law and new guidelines require a cumulative impact analysis as part of the update process to determine if the proposed regulations will result in no net loss of shoreline function.

This analysis represents the culmination of nearly four years of effort to review, update and prepare a regional Shoreline Master Program for Okanogan County and the cities of Oroville, Tonasket, Omak, Okanogan, Brewster and Pateros and the towns of Twisp and Winthrop within the County. The analysis builds upon data collected and analyzed during the inventory and characterization of the shorelines within the entirety of Okanogan County as well as the shoreline designation process and the County's and several city and towns efforts to update local comprehensive plans and zoning codes.

There are two significant parts of the analysis, separated in the same manner as the characterization: planning, physical and administrative factors such as zoning, parcel sizes and locations and types of structures (e.g. docks, bridges, pipelines, buildings), etc...; and, biological factors including the resources and stressors that affect shoreline function. As in the Characterization (see Chapter 4), the cumulative impact analysis was conducted through the combined efforts of Highlands Associates and ENTRIX, with Highlands the lead on planning factors and ENTRIX the biological processes (complete ENTRIX Report in Appendix A).

Highlands work on the planning factors focused on developing projections for build-out and future land uses within the shoreline areas of Okanogan County and its incorporated municipalities. In order to complete this work, a set of assumptions was developed and used to guide decisions about where and what type of development would occur in the jurisdiction. The assumptions were subject to review by members of both the Technical and Shoreline Advisory Groups. ENTRIX utilized the results of Highlands' analysis to run a cumulative impacts model to determine the effects of development on shoreline functions under the proposed shoreline regulations.

### **Built-Out and Future Land Use Projections**

#### **Original Assumptions**

The build-out and future land use projections prepared by Highlands Associates went through several iterations as changes were made to the proposed draft County Comprehensive Plan and Zoning Code, more current parcel and land use data became available and final revisions were made to the proposed shoreline designations and regulations. Okanogan County provided the parcel and shoreline jurisdiction boundaries used in the analysis. Each parcel in shoreline jurisdiction within the county was assigned a build-out value along with an assigned future land

use code using the following assumptions. The build-out value represents the potential number of parcels that could be created under the proposed shoreline designations and regulations.

Future land use codes were assigned based on several factors including comprehensive plan land use designation, existing land use patterns in the area, critical areas and access. Details on the original assumptions used to assign the build-out number and future land use code follow.

1. All parcels lying entirely or partially within the “maximum” definition for shoreline jurisdiction (those lands lying 200 feet landward on a horizontal plane from the OHWM or the 100-year floodplain, whichever is greater, plus associated wetlands).
2. All parcels lying entirely within mapped floodway areas were assigned a build-out of zero (0). Assumption relies on the fact that federal and state flood hazard reduction statutes generally limit all development in areas designated by FEMA as floodways.
3. All parcels located in the “Conservancy”, “Natural” and “Aquatic” designations were generally assigned a build-out of zero (0). This assumption is based on the fact that all of the parcels designated “Conservancy” are publically owned or have been placed in a conservation easement or platted open space or common area, however some privately owned parcels were assumed to be able to develop; all parcels designated “Natural” are generally publically owned or unbuildable by virtue of location (islands), however some are private owned and could potentially be developed (most are parcels outside of the Methow River District and lie entirely within the 100-year floodplain); and, all parcels designated “Aquatic” lie below the ordinary-high-water-mark and are subject to the Shoreline Management Act limitation on overwater construction.
4. All parcels located entirely within the mapped 100-year floodplain were assigned a build-out of zero (0).
5. All parcels with existing developed uses (residential, recreation, commercial or industrial – based on Assessor’s Use Codes) less than twice the minimum lot size for the shoreline designation where they are located are assigned a build-out of zero (0). The assumption is that the parcel was already developed and impact associated with existing development was part of the baseline shoreline characterization and functional classification.
6. All parcels without existing developed uses (based on Assessor’s Use Codes) less than twice the minimum lot size for the shoreline designation where they are located are assigned a build-out of one (1). Assumes all such parcels are buildable.
7. All parcels greater than or equal to twice the minimum lot size for the shoreline designation where they are located were identified assigned a value using the following assumptions:
  - a. Those parcels with less than twice the minimum shoreline frontage requirement for the shoreline designation where they are located were assigned a build-out of one (1)

if the parcel was undeveloped (based on Assessor Use Codes) or a zero (0) if the parcel was developed (based on Assessors Use Codes).

- b. Those parcels with greater than or equal to the minimum shoreline frontage requirements for the shoreline designation where they are located required that shoreline frontage to be measured (using 2006 aerial photos registered to the county parcel layer) and the minimum lot size determined. Build-out value was then assigned based on existing shoreline development and the potential number of parcels that could be created based on a combination of minimum frontage and minimum lot size requirements.

For example, a 20 acre parcel is located in a shoreline designation that requires a 5 acre minimum lot size and a 200 foot minimum frontage. The parcel has an existing residence (located within shoreline jurisdiction) and 450 feet of shoreline frontage. While the minimum lot size requirement would allow up to four lots to be created, the shoreline frontage requirement limits the total lots to two (2) within shoreline jurisdiction. This example parcel would have a build-out of one (1) for the undeveloped lot that could be created.

8. All parcels were assigned a future land use code based on adopted City, Town or County comprehensive plan land use designations.
9. Future land uses were categorized as low, medium or high intensity with land uses including residential, commercial, industrial, agriculture, resource, mixed residential/agriculture, mixed residential/commercial, etc..... using the following information (based on adopted and draft maps, aerial photos, personal knowledge and professional judgment):
  - a. Local comprehensive plan designation
  - b. Existing development patterns
  - c. Access to state or improved county roads
  - d. Existence of critical areas (primarily steep slopes, flood hazard and wetlands)

## **Modified Assumptions**

These original assumptions were subsequently modified based on input from the Technical and Stakeholder Advisory Committees and local planners.

1. Only parcels lying entirely within the 100-year floodplain in the Methow Review District were assigned a build-out of zero (0) with those parcels lying entirely in 100-year floodplain elsewhere in the County assigned a build-out using the original assumptions.
2. Where local comprehensive plan designations and density standards conflict with shoreline designation requirements, the more stringent would apply. For example, the

comprehensive plan designation allows 1-acre lots, but the shoreline designation limits lot sizes to 5 acres, the shoreline lot size was used to assign build-out. Where the comprehensive plan designation limits parcels to 20 acres, but the shoreline designations allows 1-acre lots, the comprehensive plan designation was used to assign build-out.

3. The proposed definition used to define the area of shoreline jurisdiction was changed to the “minimum” (200 feet on a horizontal plane from the floodway boundary). This change is only applicable to those areas with an official floodway on federal flood insurance rate maps.

## **Methodology**

The methodology for generating the data used in the planning factors component of the cumulative impact assessment required that each parcel within shoreline jurisdiction in Okanogan County and the cities and towns therein, be coded with the following basic data:

- existing or proposed comprehensive plan land use designation (includes density and use information)
- existing or proposed zoning district (includes minimum lot size and allowable uses)
- existing ownership verified
- percentage of parcel in mapped floodplain
- existing platted common areas and open space parcels identified
- existing conservation easement parcels identified
- location within a city or town corporate limits
- location within an adopted (by the city or town) urban growth area
- proposed shoreline designation
- proposed minimum shoreline lot size
- proposed minimum shoreline frontage

Given the elapsed time between the beginning of the characterization process and the cumulative impact assessment (nearly 3 years) the most current parcel data from Okanogan County was imported for use in the analysis. As a result of subdivision and boundary line adjustment activities the number of shoreline parcels increased over that time period. In addition, Okanogan County began working on a new comprehensive plan with several different drafts with changing land use designation maps being released during the period of time the data for the analysis was entered. This created additional work as the new or modified parcels had to be individually examined and coded with the basic data noted above.

Once the parcel data was coded with the basic data and deemed complete (duplicates removed, data verified) the process then turned to assigning build-out and future land use codes using the assumptions described above. As the assumptions were changed additional iterations of assigning build-out and future land use codes were required.

The other aspect of the planning component of the cumulative impact analysis was the assignment of a future land use for each parcel. This data, along with the build-out numbers were provided to ENTRIX for use in their modeling of cumulative impacts on shoreline functions resulting from development under the proposed SMP regulations. The following table (4.1) provides a summary of the build-out numbers for each shoreline designation. Table 4.2 provides a summary of the types of development that are projected to occur on the buildout parcels.

### Build-out Data Results for Twisp

The following table summarizes build-out data by shoreline designation. See map on following page for graphic illustration of the following data.

**Table 4.1**

Shoreline Designation	# of Parcels <sup>33</sup>		# of Parcels Currently Developed <sup>34</sup>		Potential Build-out <sup>35</sup>	
	Town	UGA	Town	UGA	Town	UGA
Aquatic	N/A	N/A	N/A	N/A	N/A	N/A
Natural	2	4	2	4	0	0
Conservancy	0	2	0	2	0	0
Riverine/Lacustrine	0	14	0	5	0	9
Rural Resource	0	0	0	0	0	0
Rural Residential	0	0	0	0	0	0
Shoreline Recreation	0	0	0	0	0	0
Shoreline Residential	112	27	79	16	66	30

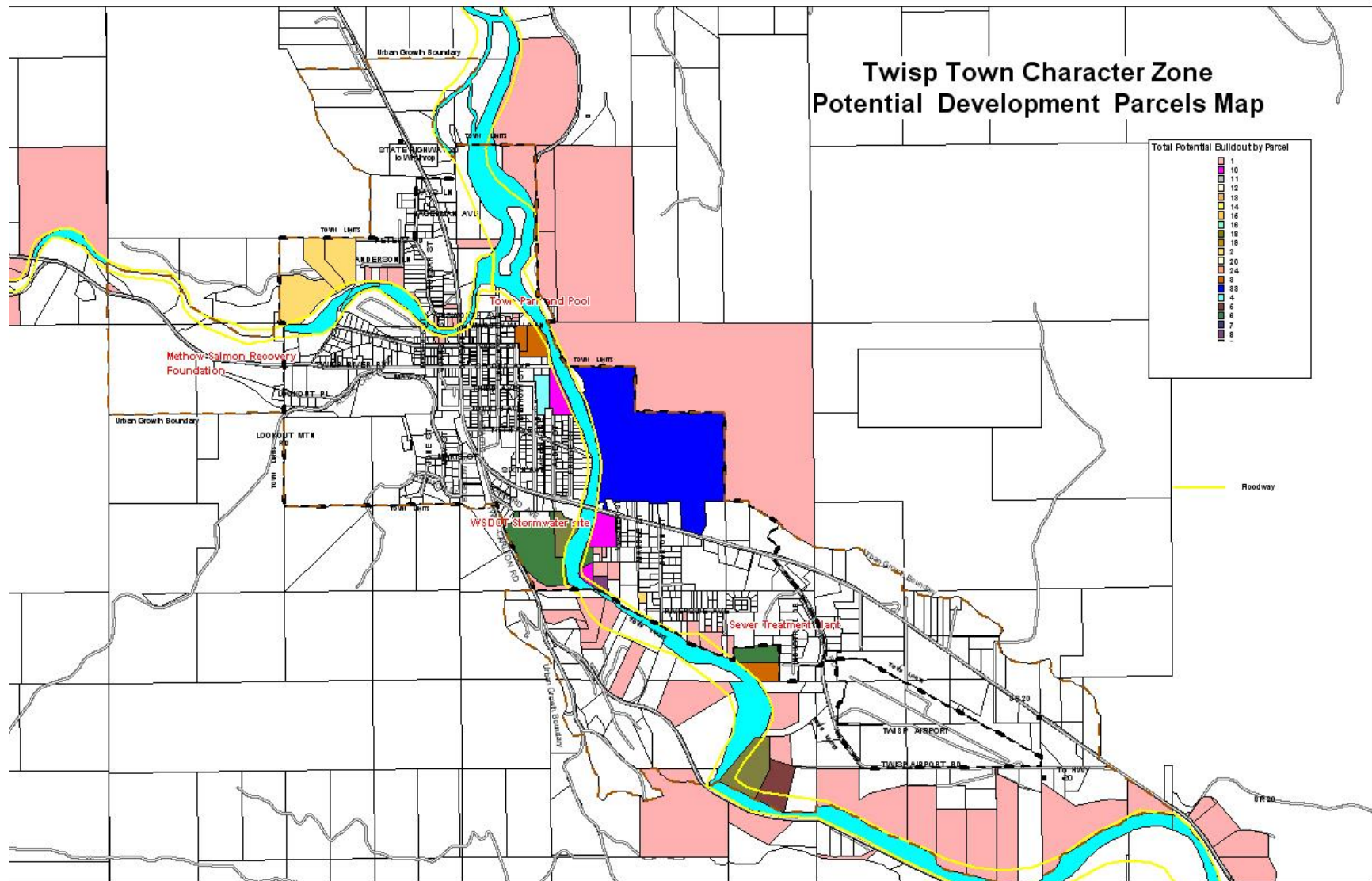
<sup>33</sup> -includes all existing parcels (January 2009 County data) with any portion lying within shoreline jurisdiction

<sup>34</sup> -includes all parcels with Assessors Use Codes that indicate existing development, public lands, land under conservation easements and platted common areas or open space.

<sup>35</sup> -represents potential new parcels under proposed shoreline regulations.

Town of Twisp Shoreline Master Program  
August 27, 2012

High Intensity	48	0	34	0	76	0
Urban Conservancy	12	8	11	8	1	0
<b>Totals</b>	<b>174</b>	<b>55</b>	<b>126</b>	<b>35</b>	<b>143</b>	<b>39</b>



A review of the data in the table finds that at present approximately 72% of shoreline parcels in the town limits and 64% in the UGA are already developed in some form. The potential exists under the proposed shoreline regulations for an additional 143 parcels in the town, and 39 in the UGA in areas subject to shoreline jurisdiction. The build-out analysis shows that the vast majority of the potential parcels within the Town are within areas designated as Shoreline Residential or High Intensity with the potential parcels in the UGA primarily focused in areas designated as Shoreline Residential. The shoreline regulations as proposed could allow for the number of parcels in shoreline jurisdiction to total over 411 (in Town and UGA) if build-out occurs under the assumptions used for this analysis.

The actual number of parcels created and land uses to be developed will vary depending on a range of factors, including location and market forces. Therefore, this analysis assumed the densest scenario of development in order to model the worst case scenario in terms of impacts. Based on regional growth projections and the current economic stagnation, it is highly unlikely that the projected build-out will be achieved in the foreseeable future. The analysis also did not take into account the use of clustered development, planned development, density bonuses, or development standards that are emerging such as low-impact development and green technology that may alter development impacts for the shoreline. These types of development tools will provide additional shoreline protection through open space plans, covenants and restrictions.

Table 4.2 shows that 41% of the new development will be high intensity commercial in nature, 51% high intensity residential, 10 % medium intensity residential and 3% medium intensity resource.

Table 4.2

Build-Out by Future Land Use and Shoreline Designation																		
Shoreline Designation	High Intensity Ag/Residential	High Intensity Commercial	High Intensity Dam/Public/ Irrigation/WWTP	High Intensity Recreation	High Intensity Residential	Low Intensity Agriculture	Low Intensity Forest	Low Intensity Recreation	Low Intensity Resource	Low Intensity Residential/ Agriculture	Low Intensity Residential	Medium Intensity Commercial	Medium Intensity Recreation	Medium Intensity Resource	Medium Intensity Residential/ Agriculture	Medium Intensity Residential	TOTALS	
Aquatic	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Natural	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Conservancy	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Riverine/Lacustrine	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	9	
Shoreline Recreation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Shoreline Residential	0	0	0	0	90	0	0	0	0	0	0	0	0	6	0	9	96	
High Intensity	0	74	0	0	2	0	0	0	0	0	0	0	0	0	0	0	76	
Urban/Conservancy	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	
Totals	0	74	0	0	92	0	0	0	0	0	0	0	0	6	0	19	182	

## **Scientific Analysis – Impact on Shoreline Function**

The next step in the process required ENTRIX to enter the build-out and future land use data into a similar computer model constructed for the characterization process (see Chapter 4 – Characterization). The process also developed formulas to represent the proposed regulations such as buffer widths, setbacks and frontages. (see Chapter 8 – Regulations).

The science team reviewed and discarded a number of variables to have the model consider but in the end decided to generally use a worst case scenario – every parcel identified as having build-out potential would be developed with each parcel using the maximum lot coverage (developed area). The team also assumed that required setbacks and buffers would be enforced.

The results of the analysis finds that the average AU functional score for the Twisp Town Character Zone (see Chapter 4 – Characterization) will remain a 3, meaning no net loss of shoreline function. Please refer to Appendix D for the data summaries prepared by ENTRIX.

## **Summary and Recommendations**

The results of the cumulative impacts analysis show that even under a worst case scenario (assuming proposed buffers are enforced), the shorelines of the Methow and Twisp Rivers within the Twisp Town Character Zone will maintain their current function with low condition and high asset values. However, it is possible as new development occurs in presently undeveloped areas and existing developed areas are redeveloped under the new regulations, that a combination of restoration and enhancement will result that can improve the condition of the shoreline areas in some places.

It is recommended that the Town:

- encourage the replacement of non-native species of vegetation with native species as practical in all shoreline development projects
- require establishment of native shoreline vegetation in areas presently degraded as part of all shoreline development projects
- develop a voluntary restoration plan for shoreline residents

## **Chapter 10**

### **Restoration Plan**

#### **Introduction**

Degraded areas from the Inventory and Analysis have been identified including those with impaired ecosystem processes and ecological functions. Of the areas identified those which have a high potential for restoration opportunities have been mapped.

In addition to the Inventory and Analysis conducted as part of this SMP update, regional efforts to restore ecosystem functions and values in response to water quality impairments, water conservation, invasive species, and the listing of threatened and endangered species have identified a multitude of sites for restoration and are underway throughout the county by a variety of agencies and organizations. This restoration plan is intended to provide (jurisdiction) with general goal and policies, a prioritization, and strategies for implementation and coordination of restoration of shorelines.

#### **Overall Goals and Priorities**

The governing principals of the shoreline update guidelines require cities and counties containing shorelines with impaired ecological functions to provide goals and policies to guide the restoration of those impaired shorelines. The regional shoreline staff and advisory committee compiled a list of potential restoration sites using data obtained during the inventory phase of the master program update, which identified impaired shoreline areas. Ongoing restoration efforts were included with the inventoried sites to create a comprehensive list of potential restoration opportunities. General and specific goals and policies have been developed and are listed below to address restoration of these various areas.

#### **Goal**

The goal of restoration is to achieve a net gain in shoreline ecological functions by providing for the timely repair and rehabilitation of impaired shorelines through a combination of public and private programs and actions including conservation.

#### **Policies**

- Restoration projects shall be designed with the intent to achieve no net loss of ecological functions.
- Encourage cooperation between public agencies, private property owners, citizens, and non-profits, volunteer groups for restoration projects.
- Facilitate restoration by expediting and simplifying the shoreline permit process for projects that are conducted solely for restoration purposes, when such projects comply with the statutory authority to grant exemptions.
- Encourage public education of shorelines in conjunction with restoration projects.

## Objectives

- Development proposals in the shoreline shall be evaluated as to their potential for voluntary ecological restoration and conservation in context to regional priorities on behalf of the property owner. The jurisdiction shall provide guidance and, where appropriate<sup>36</sup>, administrative assistance in voluntary restoration projects.
- Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance shoreline ecological functions and values at local and watershed scales.
- Coordinate and facilitate restoration efforts on behalf of development proposals as they relate to local plans and policies such as recreation and economic development plans.
- The jurisdiction shall seek funding from state, federal, private and other sources to implement restoration, enhancement, and acquisition projects and where appropriate serve as agency sponsors for restoration plans that affect shorelines and water quality of shorelines, especially shorelines of statewide significance
- Develop review guidelines that will streamline the review of restoration only projects. Exemption guidelines or criteria need to be developed.
- Educate public and private shoreline owners of the benefit of using native, noninvasive wildlife, fish and plants in shoreline areas.
- Ensure that long-term maintenance and monitoring of mitigation sites are included in the original permitting of the project.
- Allow for the use of tax incentive programs, mitigation banking, restoration grants, land swaps, or other programs, as they are developed to encourage restoration of shoreline ecological functions and protect habitat for fish, wildlife and plants.
- Jurisdictions shall pursue the development of a public benefit rating system (PBRs) that provides incentives for the restoration of the shoreline. Guidance for communities establishing a PBRs can be found at <http://www.ecy.wa.gov/pubs/99108.pdf>
- Jurisdictions shall develop educational materials which promote the stewardship of shoreline functions including information on permitting and regulations.
- Encourage the agricultural industry to continue to work closely with agencies, such as the Natural Resource Conservation Service and Okanogan Conservation District, with expertise in agricultural practices and restoration to improve degraded shoreline functions.
- Shoreline administrator shall participate in local, regional or national efforts as needed to coordinate restoration efforts in the jurisdiction.

## Restoration Techniques

Table 1. The following provides a list of techniques that are available for shoreline restoration by focusing on enhancement of natural functions

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<sup>36</sup> Jurisdictions shall provide administrative services for restoration projects as local budgets allow.

Restoration Goal/Objectives	Function or Value Description	Specific techniques (examples)
Reconnect access to floodplain	Isolated habitats- off channel/side channel, channel cutoffs, avulsion areas, wetlands, and oxbow lakes, areas isolated by instream barriers (culverts) or other artificial obstructions.	Remove anthropogenic instream barriers by culvert modification, levee breaching; excavating new ponds and wetlands, enhance instream processes, and reconnect channel and floodplain function
	Off-channel/ side channel - alcoves, ponds, wetland, seasonally flooded areas that are still in connection. Usually these off-channel habitats are altered by agriculture, urban land use, flood control, and roads.	Use instream enhancement structures to improve channel connectivity and habitat conditions
Enhance hydrologic and sediment processes	<p>Enhance natural timing, frequency, and duration of peak flows and low flows, and redirect flows to enhance natural processes.</p> <p>Restores sediment process functions that deliver coarse and fine sediment to the aquatic system.</p>	<p>Road improvement : removal, upgrade stream/culvert crossings, reduce road drainage to stream, use natural systems engineering techniques to protect infrastructure and improve/ enhance habitat and ecosystem function, traffic reduction; decommissioning of forest roads</p> <p>Riparian Enhancement: fencing<sup>1</sup>, reforestation, conifer conversion<sup>2</sup> wetland restoration impervious surface reduction</p>
Nutrient enhancement	Primary productivity increases with nutrients and provides multiple benefits to the capacity and diversity of the aquatic food web.	Carcass placement, stream fertilization, LWD and engineered log structures
Instream habitat enhancement	Over time, watershed process will restore channel complexity naturally, but the installation of channel structures may be necessary to increase habitat	Log structures, natural LWD placement, engineered log jams, boulder placement, channel reconfiguration, channel

	quality as a near-term action.	roughness elements, floodplain enhancement structures
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1 Exclude livestock: grazing can alter natural riparian and channel processes, increase streambank erosion, channel sedimentation and widening, increase stream temperature due to reduced natural vegetation, decrease stream water quality (Elmore and Beschta 1987; Platts 1991).

2 A long-term opportunity is the concept of conifer conversion in areas where hardwoods have replaced the natural conifer vegetation. However, little scientific information exists since this takes decades to 100 years. (Emmingham et al. 2000).

## Prioritization

### Shorelines of Statewide Significance:

Prioritization is based on a number of factors, including the needs of individual species, locations of refugia, and cost-effectiveness, response time of techniques, and the probability of success (Beechie and Bolton 1999). Those techniques that have a high probability of success, low variability among projects, and relatively quick response time should be implemented before other techniques. In general, reconnect high-quality isolated habitats, then riparian enhancements, and lastly road restoration.

Roni et al., 2002 described a methodology for prioritizing site-specific restoration strategies in a watershed. This methodology describes three key knowledge components needed to prescribe appropriate site-specific restoration, principles of watershed processes, protection of existing high-quality habitats, and the current knowledge of the effectiveness of specific natural system engineering techniques such as placement of engineered log jams and instream channel roughness elements. While the state of the science on the use of this approach is recent, examples from the past three years include work within the Elwha, Yakima, Nooksack, Quinault river systems. It is recommended that shoreline enhancement projects should include a monitoring plan.

## Timelines and funding

Multiple entities are responsible for systematically identifying, securing funding, designing, and constructing projects that provide regionally important watershed scale improvements to water quality and habitat improvements. The funding and timing with respect to design and construction of potential restoration projects is a continuous process.

## Existing Efforts and Ongoing Programs

This section lists the programmatic measures within Okanogan County designed to foster shoreline restoration, achieve a no-net loss in shoreline and upland ecological processes, functions and habitats. There are many programs in place that occur in Okanogan County that are related to Natural Resource Conservation Service or Conservation District programs. The jurisdictions do not anticipate leading most restoration projects or programs. However, the SMP

represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by public, private and/or non-profit entities.

## **Federal Programs**

### **Natural Resources Conservation Service**

**Conservation Reserve Enhancement Program (CREP)** – is a joint partnership between the state of Washington and U.S. Department of Agriculture (USDA) that is administered by the Washington State Conservation Commission and the Farm Services Agency (FSA). The agreement was signed in 1998 and provides incentives to restore and improve salmon and steelhead habitat on private land. The program is voluntary for landowners; the land enrolled in CREP is removed from production and grazing under ten- or 15-year contracts. In return, landowners plant trees and shrubs to stabilize the stream bank and to provide a number of additional ecological functions. Landowners receive annual rent, incentive and maintenance payments and cost share for practice installations. These payments made by FSA and the Conservation Commission can result in no cost to the landowner for participation.

**Conservation Reserve Program** – provides technical and financial assistance to eligible farmers and ranchers to address soil, water, and related natural resource concerns on their lands in an environmentally beneficial and cost-effective manner. The program provides assistance to farmers and ranchers in complying with federal, state, and tribal environmental laws, and encourages environmental enhancement. The program is funded through the Commodity Credit Corporation (CCC). CRP is administered by the FSA, with National Resources Conservation Services (NRCS) providing technical land eligibility determinations, Environmental Benefit Index Scoring, and conservation planning.

**Comprehensive Nutrient Management Plans (CNMPS)** – helps Animal Feeding Operations owners and operators to achieve their production and natural resource conservation goals through development and implementation of CNMPs.

**Conservation of Private Grazing Land Program** – is authorized by the conservation provisions of the Federal Agricultural Improvement and Reform Act (1996 Farm Bill). The intent of this provision is to provide accelerated technical assistance to owners and managers of grazing land. The purpose is to provide a coordinated technical program to conserve and enhance grazing land resources and provide related benefits to all citizens of the United States. Currently, funds have not been appropriated for this program. However, the 2002 Farm Bill mandates establishment of a separate funding line-item for this purpose.

**Emergency Watershed Protection (EWP) Program** – helps protect lives and property threatened by natural disasters such as floods, hurricanes, tornadoes, and wildfires. The program is administered by the NRCS, which provides technical and financial assistance to preserve life and property threatened by excessive erosion and flooding. EWP provides funding to project sponsors for such work as clearing debris from clogged waterways, restoring vegetation, and stabilizing riverbanks. The measures that are taken must be environmentally and economically sound and generally benefit more than one property owner. NRCS provides up to 75 percent of the funds needed to restore the natural function of a

watershed. The community or local sponsor of the work pays the remaining 25 percent, which can be provided by cash or in-kind services.

**Environmental Quality Incentives Program (EQIP)** – provides technical and financial assistance to eligible farmers and ranchers to address soil, water, and related natural resource concerns on their lands in an environmentally beneficial manner. The program provides assistance to farmers and ranchers in complying with federal, state, and tribal environmental laws, and encourages environmental enhancement. The EQIP program is funded through the CCC. The purposes of the program are achieved through the implementation of an EQIP plan of operations, which includes structural and land management practices on eligible land. Contracts of up to ten years are made with eligible producers. Cost-share payments may be made to implement one or more eligible conservation practices, such as animal waste management facilities, terraces, filter strips, tree planting, and permanent wildlife habitat. Incentive payments can be made to implement one or more land management practices, such as nutrient management, pest management, and grazing land management.

**Farmland Protection Program** – provides matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses. Working through existing programs, the U.S. Department of Agriculture (USDA) partners with state, tribal, or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. USDA provides up to 50 percent of the fair market easement value. To qualify, farmland must: be part of a pending offer from a state, tribe, or local farmland protection program; be privately owned; have a conservation plan for highly erodible land; be large enough to sustain agricultural production; be accessible to markets for what the land produces; have adequate infrastructure and agricultural support services; and have surrounding parcels of land that can support long-term agricultural production. Depending on funding availability, proposals must be submitted by the eligible entities to the appropriate NRCS state office during the application window.

**Wetlands Reserve Program** – is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA's NRCS provides technical and financial support to help landowners with their wetland restoration efforts. The NRCS goal is to achieve the greatest wetland functions and values, along with optimum wildlife habitat, on every acre enrolled in the program. This program offers landowners an opportunity to establish long-term conservation and wildlife practices and protection. The program offers three enrollment options:

- Permanent easement – conservation easement in perpetuity. This program pays the lowest of either agricultural value of land, established payment cap, or an amount offered by the landowner and pays 100 percent of wetland restoration costs.
- Thirty-year easement – 75 percent of permanent easement and 75 percent of restoration costs.
- Restoration cost-share agreement – agreement to re-establish degraded or lost wetlands for minimum of 10 years. The program pays 75 percent of the restoration costs.

**Wildlife Habitat Incentives Program (WHIP)** – is a voluntary program for people who want to develop and improve wildlife habitat primarily on private land. Through WHIP, USDA's NRCS provides both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant generally last from five to ten years from the date the agreement is signed. The 2002 Farm Bill provides for up to 15 percent of annual WHIP funds for increased cost-share payments to producers using agreements with a duration of at least 15 years.

## **U.S. Fish and Wildlife Service**

**North American Wetlands Conservation Fund** – has funds for local governments with at least a 50 percent match to: (1) acquire real property interest in lands or waters, including water rights, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and (2) restore, manage, or enhance wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon.

**Cooperative Conservation Initiative** – has funds available to support efforts to restore natural resources and establish or expand wildlife habitat. The program pays up to 50 percent.

**Private Stewardship Grants** — provides grants or other assistance on a competitive basis to individuals and groups engaged in private conservation efforts that benefits species listed or proposed as endangered or threatened under the Endangered Species Act, candidate species, or other at-risk species on private lands within the United States. The program pays up to 90 percent.

**Cooperative Endangered Species Conservation Fund (Recovery Land Acquisition Grants)** – is authorized under the Endangered Species Act. This fund provides grants to states and territories to support their participation in a wide array of voluntary conservation projects for listed species, as well as for species either proposed or candidates for listing. By law, the state or territory must contribute 25 percent of the estimated program costs of approved projects, or 10 percent when two or more states or territories undertake a joint project. One of the three grants available is the Recovery Land Acquisition Grants (\$17.8 million). These grants provide funds to states and territories for acquisition of habitat for endangered and threatened species in support of approved recovery plans.

## **Bonneville Power Administration**

**Wildlife Mitigation for the Federal Columbia River Power System** – provides funding to acquire fish and wildlife habitat above Bonneville Dam.

## **Bureau of Reclamation**

**National Fish and Wildlife Foundation** – the environmental restoration challenge grants program uses challenge grants, where recipients match funds, to encourage partnerships among federal agencies, tribes, state and/or local governments, nonprofit organizations, and individual landowners. The program offers reclamation awards grants for on-the-ground efforts to recover or conserve endangered or sensitive fish, plant, and wildlife species; restore riverine, wetland, riparian, or upland habitats; improve water quality; and control noxious weeds. All projects receiving reclamation funds must be connected to the waters or lands the Bureau of Reclamation administers.

## State Programs

### Washington State Conservation Commission

**Conservation Reserve Enhancement Program** – a joint partnership between the state of Washington and USDA that is administered by the Washington State Conservation Commission (WSCC) and the FSA. See Federal programs above.

**Conservation Easements program (SHB 2754)** – the WSCC is creating a Washington purchase of agricultural conservation easements program that will facilitate the use of federal funds, ease the burdens of local governments launching similar programs at the local level, and help local governments fight the conversion of agricultural lands.

### Washington State Department of Ecology

**Water Quality Financial Assistance** – The state Department of Ecology administers funding from three programs:

- The Centennial Clean Water Fund (Centennial), which provides low-interest loans and grants for wastewater treatment facilities and fund-related activities to reduce nonpoint sources of water pollution.
- The State Revolving Loan Fund (SRF), which provides low-interest loans for wastewater treatment facilities and related activities, or to reduce nonpoint sources of water pollution.
- The Section 319 Nonpoint Source Grants Program (Section 319), which provides grants to reduce nonpoint sources of water pollution.

Examples of the type of projects that they have funded in the past:

- Planning, design, and construction of wastewater and stormwater treatment facilities.
- Agricultural best management practices projects.
- Stream and salmon habitat restoration.
- Local loan funds for water quality projects.
- Watershed planning.
- Water quality monitoring.
- Water reuse planning and facilities.
- Lake restoration.
- Wellhead protection.
- Acquiring wetland habitat for preservation.
- Construction of public boat pump-outs.
- Public information and education.

### Salmon Recovery Funding Board

**Salmon Recovery Funding Board (SRFB)** – grants to provide funding of habitat protection and restoration projects and related programs and activities that produce sustainable and measurable benefits for fish and their habitat. Local governments, private landowners, conservation districts, Native American tribes, non-profit organizations, and special purpose districts are eligible to receive funding. Private landowners are eligible applicants only when the project takes place on their own land. All

projects must come through the local lead entity group and a Technical Advisory Group to the SRFB for final funding decisions.

## **Interagency Committee on Outdoor Recreation**

**Washington Wildlife and Recreation Program** – funds for municipal subdivisions, tribes, and state agencies in seven categories, including critical habitat and natural areas. They must be able to document at least a 50 percent match in funding for a project.

## **Washington State Department of Natural Resources**

**Aquatic Land Enhancement Grants** – grants to state agencies, tribes, and local governments. The project sponsor must document a minimum 50 percent match in funds. Eligible projects must be associated with navigable waters and are limited to aquatic habitat acquisition projects (including conservation easements), restoration projects, and public access and development projects. Acquisition projects have first priority and restoration projects second priority.

## **Types of Local Government Programs**

**Comprehensive Land Use Plan Policies** – Policies in the plan requiring use of incentive programs to encourage water quality and habitat protection.

**Land Acquisition or Purchase of Conservation Easements** – Town programs for acquisition funded by conservation futures or other local funding sources and federal and state.

**Long-Term Lease** – Land trust/governmental agency leases property from the landowner, thereby preventing other uses of the property during the lease term.

**Restoration of Habitat Projects** – Projects to create fish passage at culverts, restore floodplains, etc., with conservation futures or other local funding sources and federal and state funding noted above.

**Purchase of Development Rights** – Jurisdictions may develop a program that would allow the purchase of development rights if allowed under current zoning from the landowner with conservation futures or other local, state, or federal funding sources.

**Transfer of Development Rights** – Okanogan County and Twisp may develop a program in the whereby development rights may be transferred from agricultural land to an area where higher densities are encouraged.

## **Incentive Programs**

Develop a preferential tax incentive through the Public Benefit Rating System administered by the County under the Open Space Taxation Act (RCW 84.34) which would encourage private land owners to preserve and restore shoreline areas for “open space” tax relief. The Department of Ecology has a guidance document (<http://www.ecy.wa.gov/pubs/99108.pdf>) for local governments to use any portion of the criteria to tailor their public benefit rating system to the watershed issues they are facing. Another option is to incorporate restoration in accordance with the performance based cluster platting Okanogan County Code 16.14. This would encourage development to be clustered outside of critical habitat areas to protect them. This program also promotes restoration opportunities, recreation opportunities, and public access opportunities.

## **Implementation and Monitoring**

In addition to project monitoring required for individual restoration and/or mitigation projects, the Town should conduct system-wide monitoring of shoreline conditions and development activity, to the degree practical, recognizing that individual project monitoring does not provide an assessment of overall shoreline ecological health.

The following approach is suggested:

1. Track information using GIS and the permitting software as activities occur, such as:
  - a. New shoreline development, by permit type
  - b. Unresolved compliance issues
  - c. Mitigation areas
  - d. Restoration areas

The Town may require project proponents to monitor as part of project mitigation, which may be incorporated into this process. Regardless, as development and restoration activities occur in the shoreline area, the municipalities should seek to monitor shoreline conditions to determine whether both project specific and SMP overall goals are being achieved.

2. Periodically review and provide input to the regional ongoing monitoring programs/agencies, such as:

- Washington Dept of Ecology water quality monitoring
- Methow Watershed Council
- Methow Restoration Council
- Upper Columbia Regional Fisheries Enhancement Group
- Okanogan Basin Watershed Planning Unit
- Okanogan Conservation District
- Washington Department of Fish and Wildlife
- Upper Columbia Salmon Recovery Board
- Confederated Tribes of the Colville

- Yakama Nation

Through this coordination with regional agencies, the municipalities should seek to identify any major environmental changes that might occur.

3. Periodic review of environmental processes and functions at the time of SMP updates to, at a minimum, validate the effectiveness of the SMP. The review should consider what restoration activities actually occurred compared to stated goals, objectives and priorities, and whether restoration projects resulted in a net improvement of shoreline resources. Under the Shoreline Management Act, the SMP is required to result in no net loss of shoreline ecological functions. If this standard is found to not be met at the time of review, the town will be required to take corrective actions. The goal for restoration is to achieve a net gain in ecological function. The cumulative effect of restoration over the time between reviews should be evaluated along with an assessment of impacts of development that is not fully mitigated to determine effectiveness at achieving a net improvement to shoreline ecological resources.

To conduct a valid reassessment of the shoreline conditions every seven years, it is necessary to monitor, record and maintain key environmental metrics to allow a comparison with baseline conditions. The Town needs to establish metrics as part of this plan to measure overall success of SMP. Most of these were measured during the inventory and analysis. Examples:

- Linear feet of harden bank
- Linear feet of shoreline protected by easement or dedication
- Linear feet of shoreline with intact riparian vegetation
- Number of restoration sites
- Number of mitigation sites
- Number of NDPS permits
- Acreage of floodplain accessible
- Number of public access points
- Linear feet of shoreline accessible to public
- Number of structures in Shoreline and uses
- Crossings and culverts
- Stormwater or pollution abatement facilities

Evaluation of shoreline conditions, permit activity, GIS data, and policy and regulatory effectiveness should occur at varying levels of detail consistent with the Regional Shoreline Master Program update cycle and the Comprehensive Plan amendment cycle which takes place every five years. A complete reassessment of conditions, policies and regulations should be considered every seven years.

## **CHAPTER 11**

### **Administration**

#### **Introduction**

To be authorized, all uses and developments shall be planned and carried out in a manner that is consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

#### **1. Sections**

##### **11.01 Minimum Application Requirements**

##### **11.02 Pre-application Conference**

##### **11.03 Plan Review**

##### **11.04 Application Vesting**

##### **11.05 Notice of Application**

##### **11.06 Limited Administrative Review**

##### **11.07 Full Administrative Review**

##### **11.08 Quasi-Judicial Review**

##### **11.09 Legislative Review**

##### **11.10 Notice of Final Decision**

##### **11.11 Shoreline Substantial Development Permits**

##### **11.12 Exemptions from Substantial Development Permit Process**

##### **11.13 Conditional Use Permits**

##### **11.14 Variance Review Criteria**

##### **11.15 Appeals**

##### **11.16 Reasonable Use Exception**

##### **11.17 Non-Conforming Structures**

##### **11.18 Non-Conforming Uses**

##### **11.19 Non-Conforming Lots**

##### **11.20 Violations and Penalties**

## **11.01 Minimum Application Requirements**

**11.01 A.** Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the Administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this Program.

**11.01 B.** A complete application for an exemption, substantial development, conditional use, or variance permit shall contain, at a minimum, the following information; provided that the Administrator may vary or waive these requirements on a case-by-case basis. The Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other town requirements.

### **11.01 B. 1. Applicant/Proponent Information**

**11.01 B. 1. a.** The name, address and phone number of the applicant/proponent, applicant's representative, and /or property owner if different from the applicant/proponent.

**11.01 B. 1. b.** The applicant/proponent should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

### **11.01 B. 2. Property Information**

**11.01 B. 2. a.** The property's physical address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

**11.01 B. 2. b.** Identification of the name of the shoreline (waterbody) that the site of the proposal is associated with.

**11.01 B. 2. c.** A general description of the property as now exists including its size, dimensions, land use, vegetation, landforms, other physical and ecological characteristics, existing improvements and existing structures.

**11.01 B. 2. d.** A general description of the vicinity of the proposed project including identification of the surrounding land uses, structures and improvements, intensity of development and physical characteristics.

**11.01 B. 2. e.** A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, water and sewer, existing developments and uses on adjacent properties.

### **11.01 B. 3. Site Plans**

Site plan(s) identifying *existing* conditions and *proposed developments* consisting of photographs, text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all relevant information that may include the following: The Administrator may required more specific detailed information prepared by a qualified professional, if additional information is required to confirm or add detail to the application.

**11.01 B. 3. a. Parcel Boundary and Dimensions.** The boundary of the parcel(s) of land upon which the development is proposed. A survey may be required where substantial questions exist regarding the location of property lines or other important features.

**11.01 B. 3. b. OHWM.** The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. For any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark (e.g. structure setback), the mark shall be located precisely on the ground and the biological and hydrological basis for the location as indicated on the plans shall be noted in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

**11.01 B. 3. c. Topography.** Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area. The use of cross-sectional drawing and 3-Dimensional drawings or imagery may also be used to provide elevation information.

**11.01 B. 3. d. Critical Areas.** Existing critical areas must be identified together with any supporting information consistent with the reporting requirements found below.

**11.01 B. 3. d. 1) Critical Areas Report.**

If the administrator determines that the site of a proposed development potentially includes, or is adjacent to, critical area(s), a critical areas report may be required. When required, the expense of preparing the critical areas report shall be borne by the applicant. The content, format and extent of the critical areas report shall be approved by the administrator.

i. The requirement for critical areas reports may be waived by the administrator if there is substantial evidence that:

(a) There will be no alteration of the critical area(s) and/or the required buffer(s);

(b) The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this ordinance and the comprehensive plan; and,

- (c) The minimum standards of this chapter will be met.
- ii. No critical area report is required for proposals that are exempt from the provisions of this chapter as set forth in Section 11.12 herein.
- iii. Critical area reports shall be completed by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the administrator.
- iv. At a minimum, a required critical areas report shall contain the following information:
  - (a) Applicant's name and contact information; permits being sought, and description of the proposal;
  - (b) A copy of the site plan for the development proposal, drawn to scale and showing:
    - (1) Identified critical areas, buffers, and the development proposal with dimensions;
    - (2) Limits of any areas to be cleared; and
    - (3) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
  - (c) The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
  - (d) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
  - (e) An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;
  - (f) An analysis of site development alternatives;
  - (g) A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;
  - (h) A mitigation plan (11.01 B. 3. h.), as needed, in accordance with the mitigation requirements of this chapter, including, but not limited to:
    - (1) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
    - (2) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
  - (i) A discussion of the performance standards applicable to the critical area and proposed activity;
  - (j) Financial guarantees to ensure compliance; and
  - (k) Any additional information required for specific critical areas as listed in subsequent sections of this chapter.

- v. The administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.

**11.01 B. 3. e. Vegetation.** A general representation of the width, location, and character of vegetation found on the site

**11.01 B. 3. f. Structures.** The dimensions and locations of all *existing* and *proposed* structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

**11.01 B. 3. g. Landscaping plans.** Where applicable, a landscaping plan for the project.

**11.01 B. 3. h. Mitigation plans.** Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements as follows.

**11.01 B. 3. h. 1) Mitigation Requirements.** The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical areas report and SEPA documents. Mitigation shall be on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

**i. Mitigation sequencing.** Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

(f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

**ii. Mitigation plan.** When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:

(a) A written report identifying mitigation objectives, including:

(1) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of site compensation construction activities;

(2) A review of the best available science supporting the proposed mitigation and a description of the report authors experience to date in critical areas mitigation; and

(3) An analysis of the likelihood of success of the compensation project.

(b) Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met.

(c) Written specifications and descriptions of the mitigation proposed, including, but not limited to:

(1) The proposed construction sequence, timing, and duration;

(2) Grading and excavation details;

(3) Erosion and sediment control features;

(4) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(5) Measures to protect and maintain plants until established.

(d) A program for monitoring construction of the compensation project, and for assessing the completed project and its effectiveness over time. The program shall include a schedule for site monitoring and methods to be used in evaluating whether performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to

establish that performance standards have been met, but not for a period less than five (5) years.

(e) Identify potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

**11.01 B. 3. i. Fill Specifications.** Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

**11.01 B. 3. j. Dredge material.** Quantity, composition and destination of any excavated or dredged material.

**11.01 B. 3. k. Views.** Where applicable, photographs taken from various vantages that depict the current quality of views from surrounding uses and public areas, including photographs taken of the shoreline from the water's edge and across the water body where feasible and appropriate.

**11.01 B. 3. l. Area of Variance.** On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

**11.01 B. 4.** Shoreline permits shall be applied for on forms provided by the jurisdiction.

**11.01 B. 5.** Critical areas reports and mitigation management plan(s) as required pursuant to other applicable sections of this program.

**11.01 B. 6.** Where applicable, accompanying critical area mitigation plans in accordance with Section 11.01 B. 3. d.

**11.01 B. 7.** A list of all property owners and their mailing addresses within 300 ft of the proposed development boundaries.

### **Pre-application Conference**

**11.02 A.** Prior to filing a permit application for a shoreline exemption, substantial development permit, variance or conditional use permit decision, the applicant shall contact the jurisdiction to schedule a pre-application conference which shall be held prior to filing the application, provided that such meetings shall not be required for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single family residence.

**11.02 B.** The purpose of the pre-application conference is to review and discuss the application requirements with the prospective applicant and provide initial comments on the development proposal. The pre-application conference shall be scheduled by the jurisdiction, at the request of an applicant, and shall be held in a timely manner, within thirty (30) days from the date of the applicant's request. Pre-application meetings may take place via telephone or through email contact. If either of the later methods are used, the administrator shall print the correspondences and/or document the meeting in a memo or staff report to be placed in the project file.

**11.02 C.** Information presented at or required as a result of the pre-application conference shall be valid for a period of one-hundred-eighty (180) days following the pre-application conference. An applicant wishing to submit a permit application more than one-hundred-eighty (180) days following a pre-application for the same permit application may be required to schedule another pre-application conference at the discretion of the administrator. If changes in physical or biological conditions or regulatory environment changes have been implemented, another pre-application meeting should be requested by the administrator.

**11.02 D.** At or subsequent to a pre-application conference, the jurisdiction may issue a preliminary determination that a proposed development is not permissible under applicable policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the appropriate hearing body as provided for in the administrative procedures code for the town.

### **11.03 Plan Review**

**11.03 A.** A plan review shall be conducted to determine if the application is complete. Plan review shall determine if adequate information is provided in or with the application in order to begin processing the application and that all required information and materials have been supplied in sufficient detail to begin the application review process. All information and materials required by the application form must be submitted. All studies supporting the application or information that addresses anticipated impacts of the proposed development must be submitted. A notice of completion of incompleteness shall be prepared and submitted to applicant within 28 days of receipt of materials.

**11.03 B.** The purpose of the plan review is to ensure adequate information is contained in the application materials to demonstrate consistency with this Program, applicable comprehensive plans, development regulations and other applicable regulations. Town staff will coordinate the involvement of agencies responsible for the review of the proposed development.

### **11.04 Application Vesting**

**11.04. A.** An application shall become vested on the date a determination of completeness is made and all fees have been paid. Thereafter, the application shall be reviewed under the codes, regulations and other laws in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a determination of

completeness, as determined by the administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

**11.04. B.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, local government may authorize a single extension of a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties for record on the substantial development permit and to the department.

**11.04. C.** Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

**11.04. D.** The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (2) and (3) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed including all reasonable related administrative or legal actions on any such permits or approvals.

**11.04. E.** Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired: Provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

**11.04. F.** Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

## **11.05 Notice of Application**

**11.05 A.** Within fourteen days after issuing a determination of completeness, the administrator shall issue a notice of application. The notice shall include, but not be limited to the following:

**11.05 A. 1.** A description of the proposed project action, a list of permits required for the application, and if applicable, a list of any studies requested;

**11.05 A. 2.** The identification of other required permits not included in the application, to the extent known by the Administrator;

**11.05 A. 3.** The identification of existing environmental documents which evaluate the proposed development and the location where the application and any studies can be reviewed;

**11.05 A. 4.** A statement of the public comment period, which shall be thirty days following the date of the notice of application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made, and a statement of any appeal rights;

**11.05 A. 5.** The date, time, location and type of hearing, if applicable and scheduled at the date of the notice of application;

**11.05 A. 6.** Any other information determined by the administrator to be appropriate.

**11.05 B. Informing the public**

**11.05 B. 1.** The notice of application shall be mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the development is proposed;

**11.05 B. 2.** In addition to mailing the notice of application, the Administrator may require the notice to be posted on the subject property for the duration of the public comment period, where the Administrator finds that such additional notice may be of benefit for the public. The applicant shall be responsible for posting and maintaining the posting throughout the entire public comment period. The applicant shall obtain the notice of application sign(s) from the Administrator upon payment of all applicable fees. The sign location and condition shall be the responsibility of the applicant until the sign(s) are returned to the Administrator. After the public comment period, the applicant shall sign an affidavit of posting before a notary public, using the form adopted by the city or town, and file the affidavit of posting with the Administrator, together with a photograph of the notice of application sign(s) posted at the site. Any necessary replacement of the notice of application sign(s) and post(s) shall be the sole responsibility of the applicant.

**11.05 C.** The notice of application is not a substitute for any required notice of a public hearing.

**11.05 D.** A State Environmental Policy Act (SEPA) threshold determination may be issued for a proposal concurrent with the notice of application.

**11.05 E.** Notice of application and SEPA determination will be published in the local official newspaper of record.

#### **11.06 Limited Administrative Review**

**11.06 A.** Limited administrative review shall be used when the proposed development is subject to clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues and the proposed development is exempt from the State Environmental Policy Act (SEPA). Included within this type of review are single-family building permits accessory dwelling units and other appurtenant development. The Administrator may approve, approve with conditions, or deny the application after the date the application is accepted as complete, without public notice. The decision of the Administrator is final. There is no administrative appeal of a limited administrative review decision.

#### **11.07 Full Administrative Review**

**11.07 A.** Full administrative review shall be used when the proposed development is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest. The proposed development may or may not be subject to SEPA review. Included within this type of review are applications for, shoreline exemptions which require a letter of exemption, administrative shoreline substantial development permits, administrative shoreline conditional use permits, short subdivisions, multifamily, commercial, and industrial and/or office building permits.

**11.07 B.** This review procedure under full administrative review shall be as follows:

**11.07 B. 1.** Upon the completion of the public comment period and the comment period required by SEPA, if applicable, the Administrator may approve, approve with conditions, or deny the application. The Administrator shall mail the notice of decision to the applicant and all parties of record. The decision shall include:

**11.07 B. 1. a.** A statement of the applicable criteria and standards in the development codes and other applicable law;

**11.07 B. 1. b.** A statement of the findings of the review authority, stating the application's compliance or noncompliance with each applicable criterion, and assurance of compliance with applicable standards;

**11.07 B. 1. c.** The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with all applicable laws;

**11.07 B. 1. d.** A statement that the decision is final unless appealed as provided in 11.15 (A) of this Program. The appeal closing date shall be listed. The statement shall describe how a party may appeal the decision.

**11.07 B. 1. e.** A statement that the complete application file including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall list the name and telephone number of the Administrator's representative to contact to arrange inspection.

**11.07 B. 2.** The decision may be appealed to the Board of Adjustment or Town Council pursuant to the process established in 11.15(A) of this Program.

### **11.08 Quasi-judicial review of applications**

**11.08 A.** Quasi-judicial review shall be used when the development or use proposed under the application requires a public hearing before the Board of Adjustment. This type of review shall be used for shoreline conditional use permits, shoreline variances, shoreline substantial development permits<sup>37</sup> and other similar applications.

**11.08 B.** The review procedure under quasi-judicial review shall be as follows:

**11.08 B. 1.** A quasi-judicial review process requires an open record public hearing before the Board of Adjustment.

**11.08 B. 2.** The public hearing shall be held after the completion of the public comment period and the comment period required by SEPA, if applicable.

**11.08 B. 3.** At least ten days before the date of a public hearing the Administrator shall issue public notice of the date, time, location and purpose of the hearing.

**11.08 B. 4.** At least ten days before the date of the public hearing, the Administrator shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative. The Administrator shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.

**11.08 B. 5.** Public hearings shall be conducted in accordance with the rules of procedure adopted by the Board of Adjustment. A public hearing shall be recorded. If for any reason, the hearing cannot be completed on the date set in the public notice, it may be continued during the public hearing to a specified date, time and location, without further public notice required.

**11.08 B. 6.** Within ten working days after the Board of Adjustment adopts their final decision, the Board shall issue a written decision regarding the application(s).

**11.08 B. 7.** The hearing body may approve, approve with conditions or deny the application and shall mail the notice of its decision to the Administrator, Ecology, applicant, the applicant's designated representative, the property owner(s), and any other parties of record. The decision shall include:

**11.08 B. 7. a.** A statement of the applicable criteria, standards and law;

**11.08 B. 7. b.** A statement of the findings of fact the hearing body made showing the proposal does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards;

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<sup>37</sup> - hearing is only required when Administrator determines that the public interest would be served, e.g. large projects affecting shorelines of state-wide significance.

**11.08 B. 7. c.** A statement that the decision is final unless appealed pursuant to section 11.16 (A) of this Program. The appeal closing date shall be listed;

**11.09 Legislative review of applications**

**11.09 A.** Legislative review shall be used to review and amend this master program.

**11.09 B.** Legislative review shall be conducted as follows:

**11.09 B. 1.** Legislative review requires at least one public hearing before the planning commission and one public meeting before the Town Council.

**11.09 B. 2.** The application shall contain all information and material requirements required by the appropriate application form.

**11.09 B. 3.** At least ten days before the date of the first planning commission hearing the Administrator shall issue public notice of the date, time, location and purpose of the hearing. The notice shall include notice of the SEPA threshold determination issued by the Administrator.

**11.09 B. 4.** At least ten days prior to the hearing the Administrator shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative, and planning commission members. The Administrator shall make available a copy of the staff report, subject to a reasonable charge, to other persons who request it.

**11.09 B. 5.** Following the public hearing and in accordance with RCW 36.70.630, the recommendation of the planning commission shall be forwarded to Town Council. Upon receiving the recommendation from the planning commission, the Town Council shall set a public meeting to consider the proposal, at which the Council may either accept or reject the recommendation.

**11.09 B. 6.** The Town Council must hold a public hearing to consider any changes to the recommendation of the planning commission. The Town Council may approve, approve with conditions, deny or remand the proposal back to the planning commission for further review after such public hearing. The final decision of the legislative authority shall be adopted by resolution.

**11.09 B. 7.** The final decision of the Town Council shall be in writing and include:

**11.09 B. 7. a.** A statement of the applicable criteria and law;

**11.09 B. 7. b.** A statement of the findings indicating the application's or proposed development's compliance or noncompliance with each applicable approval criterion;

**11.09 B. 7. c.** The decision to approve, condition or reject the planning commission recommendation or remand for further review;

**11.09 B. 7. d.** A statement that the decision is final unless appealed pursuant to the process in Section 11.15 of this Chapter. The appeal closing date shall be listed.

**11.09 B. 7. e.** A statement that the complete application file including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall state the name and telephone number of the town representative to contact.

#### **11.10 Notice of final decision**

**11.10 A.** A notice of final decision on an application shall be issued within one hundred twenty days after the date of the declaration of completeness, unless additional time is required due to environmental review, agency consultations or is needed to complete required studies or reports. In determining the number of days that have elapsed, the following periods shall be excluded:

**11.10 A. 1.** Any period during which the applicant has been requested by the Administrator to correct plans, perform required studies, or provide additional information or materials. The period shall be calculated from the date the Administrator issues the request to the applicant to, the earlier of, the date the Administrator determines whether the additional information satisfies its request or fourteen days after the date the information has been received by the town;

**11.10 A. 2.** If the Administrator determines the information submitted by the applicant under 11.01 of this Section is insufficient, it shall again notify the applicant of deficiencies, and the procedures of this Section shall apply to the request for information;

**11.10 A. 3.** Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance pursuant to RCW 43.21C;

**11.10 A. 4.** Any period for administrative appeals.

**11.10 A. 5.** Any extension of time mutually agreed upon by the applicant and the Administrator.

**11.10 B.** The time limit by which the jurisdiction must issue a notice of final decision does not apply if an application:

**11.10 B. 1.** Requires an amendment to a comprehensive plan or development regulation;

**11.10 B. 2.** Is substantially revised by the applicant after a determination of completeness has been issued, in which case the time period shall start from the date on which the revised project application is determined to be complete.

**11.10 C.** If the Administrator is unable to issue its final decision within the time limits provided for in this Chapter, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

**11.10 D.** In accordance with state law, the local jurisdiction is not liable for damages which may result from the failure to issue a timely notice of final decision.

**11.10 E.** The Town shall file the final decision with the Department of Ecology in accordance with WAC 173-27-130, as amended.

## **11.11 Shoreline Substantial Development Permits**

**11.11 A.** A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 11.12 (B).

**11.11 B.** In order to be approved, the decision maker must find that the proposal is consistent with the following criteria:

**11.11 B. 1.** All regulations of this Program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under Section 11.14.

**11.11 B. 2.** All policies of this Program appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.

**11.11 B. 3.** For projects located on shorelines of statewide significance, the policies of Chapter 5 shall be also be adhered to.

**11.11 C.** The Town may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP.

**11.11 D.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, local government may authorize a single extension of a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties for record on the substantial development permit and to the department.

**11.11 E.** Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

**11.11 F.** The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (2) and (3) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed including all reasonable related administrative or legal actions on any such permits or approvals.

**11.11 G.** Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired: Provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

**11.11 H.** The Town shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

## **11.12 Exemptions from Shoreline Substantial Development Permit Process**

### **11.12 A. Application and Interpretation**

**11.12 A. 1.** An exemption from the substantial development permit process is not an exemption from compliance with the Act or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and regulatory provisions of this Program and the Act. A statement of exemption shall be obtained for exempt activities consistent with the provisions of this section.

**11.12 A. 2.** Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

**11.12 A. 3.** The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.

**11.12 A. 4.** If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.

**11.12 A. 5.** A development or use that is listed as a conditional use pursuant to this Program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

**11.12 A. 6.** When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

**11.12 A. 7.** All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Administrator, including compliance with bulk and dimensional standards and policies and regulations of this Program. The Administrator may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program.

### **11.12 B. Exemptions Listed**

**11.12 B. 1.** Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen dollars (\$5,718) or as amended by the state office of financial management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

**11.12 B. 2.** Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. Normal maintenance includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal repair means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or the environment.

**11.12 B. 3.** Construction of the normal protective bulkhead common to single family residences. A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used for backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

**11.12 B. 4.** Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58, WAC 173-27 or this Program, shall be obtained. All emergency construction shall be consistent with the policies of RCW 90.58 and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

**11.12 B. 5.** Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels and pipes; provided, that this exemption shall not apply to agricultural activities proposed on land not in agricultural use on December 17, 2003, and further provided that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

**11.12 B. 6.** Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

**11.12 B. 7.** Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level and that meets all requirements of the State agency or local government having jurisdiction thereof. Single family residence means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance as defined in Chapter 2 of this program.

**11.12 B. 8.** Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if in fresh waters the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this Shoreline Master Program.

**11.12 B. 9.** Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

**11.12 B. 10.** The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

**11.12 B. 11.** Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

**11.12 B. 12.** Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;

**11.12 B. 13.** Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

**11.12 B. 13. a.** The activity does not interfere with the normal public use of the surface waters;

**11.12 B. 13. b.** The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

**11.12 B. 13. c.** The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

**11.12 B. 13. d.** A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the responsible local government to ensure that the site is restored to preexisting conditions; and

**11.12 B. 13. e.** The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;

**11.12 B. 14.** The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

**11.12 B. 15.** Watershed restoration projects as defined below. The Town shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemptions for watershed restoration projects as used in this section.

**11.12 B. 15. a.** "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

**11.12 B. 15. a. 1)** A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

**11.12 B. 15. a. 2)** A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

**11.12 B. 15. a. 3)** A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**11.12 B. 15. b.** "Watershed restoration plan" means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, or Transportation; a federally recognized Indian tribe acting within and pursuant to its authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act

**11.12 B. 16.** A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

**11.12 B. 16. a.** The project has been approved in writing by the State of Washington department of Fish and wildlife;

**11.12 B. 16. b.** The project has received hydraulic project approval by the State of Washington Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and

**11.12 B. 16. c.** The Town has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs.

**11.12 C.** Letters of Exemption

**11.12 C. 1.** Letters of exemption shall be issued whenever a development is determined to be exempt from the substantial development permit requirements pursuant to WAC 173-27-040 and the development is subject to one or more of the following federal permit requirements:

**11.12 C. 1. a.** A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.) or

**11.12 C. 1. b.** A section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)

**11.12 C. 1. c.** The letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the analysis of the consistency of the project with the master program and the act.

**11.12 C. 1. d.** Exemptions may be conditioned to ensure compliance with the requirements of the SMP

**11.13 Conditional Use Permits**

**11.13 A.** Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the responsible local government.

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

**11.13 C.** Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

**11.13 D.** Conditional Use Permit Review Criteria

**11.13. D. 1.** The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

**11.13. D. 2.** Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

**11.13 D. 2. a.** That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

**11.13 D. 2. b.** That the proposed use will not interfere with the normal public use of public shorelines;

**11.13 D. 2. c.** That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

**11.13 D. 2. d.** That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

**11.13 D. 2. e.** That the public interest suffers no substantial detrimental effect.

**11.13 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.

#### **11.14 Variance Review Criteria**

**11.14 A.** The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program and any associated standards appended to this Program such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property and/or surrounding properties such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW 90.58.020. Use restrictions may not be varied.

**11.14 B.** Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

**11.14 C.** Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

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

**11.14. C. 2.** That the hardship described in (11.14 C. 1.) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

**11.14. C. 3.** That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

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

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

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

**11.12 D.** Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

**11.14. D. 1.** That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

**11.14. D. 2.** That the proposal is consistent with the criteria established under Section 11.14 C 1 through 6; and

**11.14. D. 3.** That the public rights of navigation and use of the shorelines will not be adversely affected.

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

**11.14 F.** Variances from the use regulations of the master program are prohibited.

## **11.15 Appeals**

### **11.15 A. Appeals of Shoreline Administrative Decisions**

**11.15. A. 1.** Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Board of Adjustment by any aggrieved person. Such appeals shall be an open record hearing before the Board of Adjustment. Where the responsible local government does not have a Board of Adjustment, the Town Council shall hold an open record hearing appeal. Appeals must be submitted within twenty one (21) days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

**11.15 A. 1. a.** The decision being appealed;

**11.15 A. 1. b.** The name and address of the appellant and his/her interest(s) in the application or proposed development;

**11.15 A. 1. c.** The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous;

**11.15 A. 1. d.** The specific relief sought by the appellant; and

**11.15 A. 1. e.** The appeal fee established by the responsible local government.

**11.15 B. Appeals to the Shorelines Hearing Board**

**11.15. B. 1.** Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of filing the final decision by the responsible the Town with Ecology.

**11.16 Reasonable Use Exception**

**11.16. A.** Where project proponents would seek a “Reasonable Use” exception to their proposal, they shall seek exception process and relief through the RSMP Conditional Use or Variance Permit process.

### **11.17 Non-Conforming Structures**

**11.17 A.** Structures that were legally established and are used for a use conforming at the time of establishment, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density established in this SMP may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

**11.17 B.** A structure for which a Variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

**11.17 C.** A nonconforming structure which is moved any distance on the same parcel provided it does not increase the nonconforming aspects of the structure (such as further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses).

**11.17 D.** If a nonconforming development is damaged, it may be reconstructed provided the resulting configuration does not increase the nonconformity as it existed immediately prior to the time the development was damaged. An application shall be made for permits necessary to restore the development within one year of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance unless otherwise extended.

**11.17 E.** Nothing in this section shall be deemed to prevent the normal maintenance and repair of a nonconforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

### **11.18 Non-Conforming Uses**

**11.18 A.** Uses and developments that were legally established and are nonconforming with regard to the use regulations of the SMP may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences and water related commercial uses that are located landward of the OHWM may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in Chapter 8 upon approval of a Conditional Use Permit.

**11.18 B.** A use which is listed as a conditional use, but which existed prior to adoption of the SMP or any relevant amendment and for which a Conditional Use Permit has not been obtained, shall be considered a legal nonconforming use.

**11.18 C.** A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Conditional Use Permit. A Conditional Use Permit may be approved only upon a finding that:

**11.18 C. 1.** The proposed use will be at least as consistent with the policies and provisions of the Act and the SMP and as compatible with the uses in the area as the preexisting use. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the SMP and the Act, and to assure that the use will not become a nuisance or a hazard.

**11.18 D.** If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to 11.16 of this Section shall be considered a conforming use for purposes of this section.

### **11.19 Non-Conforming Lots**

**11.19 A.** An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of this SMP, but which does not conform to the present lot size standards, may be developed, if permitted by other land use regulations of the responsible local government and so long as such development conforms to all other requirements of this SMP and the Act.

### **11.20 Enforcement, Violations, and Penalties**

**11.20 A. Authority and purpose.** This part is adopted under RCW 90.58.200 and 90.58.210 to implement the enforcement responsibilities of the department and the town under the Shoreline Management Act. The act calls for a cooperative program between local government and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms already in place at the local level and does not preclude other means of enforcement.

[Statutory Authority: RCW 90.58.140(3) and [90.58].200, 96-20-075 (Order 95-17), § 173-27-240, filed 9/30/96, effective 10/31/96.]

**11.20 B. Definitions.** The definitions contained in WAC 173-27-030 shall apply in this part also except that the following shall apply when used in this part of the regulations:

**11.20 B. 1.** "Permit" means any form of permission required under the act prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions; and

**11.20 B. 2.** "Exemption" means authorization from the city which establishes that an activity is exempt from substantial development permit requirements under WAC 173-27-040, but subject to regulations of the act and the local master program.

[Statutory Authority: RCW 90.58.140(3) and [90.58].200, 96-20-075 (Order 95-17), § 173-27-250, filed 9/30/96, effective 10/31/96.]

**11.20 C. Policy.** These regulations should be used by the town in carrying out enforcement responsibilities under the act, unless the town adopts separate rules to implement the act's enforcement provision.

Enforcement action by the department or the town may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action. [Statutory Authority: RCW 90.58.140(3) and [90.58].200, 96-20-075 (Order 95-17), § 173-27-260, filed 9/30/96, effective 10/31/96.]

**11.20 D. Order to Cease and Desist.** The Town and/or the department of Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the local master program.

**11.20 D. 1. Content of order.** The order shall set forth and contain:

**11.20 E. 1. a.** A description of the specific nature, extent, and time of violation and the damage or potential damage; and

**11.20 E. 2. b.** A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.

**11.20 D. 2. Effective date.** The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

**11.20 D. 3. Compliance.** Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

[Statutory Authority: RCW 90.58.140(3) and [90.58].200, 96-20-075 (Order 95-17), § 173-27-270, filed 9/30/96, effective 10/31/96.]

### **11.20 E Civil Penalty.**

**11.20 E. 1.** A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by the Town. The department may impose a penalty jointly with the Town, or alone only upon an additional finding that a person:

**11.20 E. 1. a.** Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or

**11.20 E. 2. b.** Has been given previous notice of the same or similar type of violation of the same statute or rule; or

**11.20 E. 3. c.** The violation has a probability of placing a person in danger of death or bodily harm; or

**11.20 E. 4. d.** Has a probability of causing more than minor environmental harm; or

**11.20 E. 5. e.** Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

**11.20 E. 2.** In the alternative, a penalty may be issued to a person by the department alone, or jointly with the Town for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

**11.20 E. 2. a.** A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

**11.20 E. 2. b.** A statement of what is required to achieve compliance;

**11.20 E. 2. c.** The date by which the agency requires compliance to be achieved;

**11.20 E. 2. d.** Notice of the means to contact any technical assistance services provided by the agency or others; and

**11.20 E. 2. e.** Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

Furthermore, no penalty shall be issued by the department until the individual or business has been given a reasonable time to correct the violation and has not done so.

**11.20 E. 3. Amount of penalty.** The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

**11.20 E. 4. Aiding or abetting.** Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

**11.20 E. 5. Notice of penalty.** A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department and/or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

**11.20 E. 6. Application for remission or mitigation.** Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the department or the Town for remission or mitigation of such penalty. Upon receipt of the application, the department or the Town may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not

considered in setting the original penalty.

When a penalty is imposed jointly by the department and local government, it may be remitted or mitigated only upon such terms as both the department and the Town agree. [Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-27-280, filed 9/30/96, effective 10/31/96.]

#### **11.20 F. Appeal of Civil Penalty**

**11.20 F. 1. Right of appeal.** Persons incurring a penalty imposed by the department or imposed jointly by the department and the Town may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons incurring a penalty imposed by the Town may appeal the same to the Twisp Town Council.

**11.20 F. 2. Timing of appeal.** Appeals shall be filed within thirty days of receipt of notice of penalty unless an application for remission or mitigation is made to the department or local government. If such application is made, appeals shall be filed within thirty days of receipt of the Town's and/or the department's decision regarding the remission or mitigation.

#### **11.20 G. Penalties due.**

**11.20 G. 1.** Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of local government's and/or the department's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

**11.20 G. 2.** If the amount of a penalty owed the department is not paid within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. If the amount of a penalty owed the Town is not paid within thirty days after it becomes due and payable, the Town may take actions necessary to recover such penalty.

**11.20 H. Penalty recovered.** Penalties recovered by the department shall be paid to the state treasurer. Penalties recovered by the Town shall be paid to the Twisp treasury. Penalties recovered jointly by the department and the Town shall be divided equally between the department and the local government unless otherwise stipulated in the order. Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-27-290, filed 9/30/96, effective 10/31/96.]

**11.20 I. Criminal Penalty.** The procedures for criminal penalties shall be governed by RCW 9A.08.020.

**11.20 J. Prosecution.** Any person violating any of the provisions of this Master Program or the Shoreline Management Act of 1971 shall be guilty of a gross misdemeanor, and shall be punishable by a fine of not less than \$25.00 nor more than \$1,000, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense. Provided, that the fine for the third and all subsequent violations in any five (5) year period shall not be less than \$500.00 nor more than \$10,000.00.

**11.20 K. Injunction.** The Town Attorney may bring such injunctive, declaratory or other actions as are necessary to insure that no uses are made of the shorelines of the State within the Town's jurisdiction which are in conflict with the provisions and programs of this Master Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

**11.20 L. Violators Liable for Damages.** Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Town Attorney may bring suit for damages under this subsection on behalf of the Town. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.