

**Draft Shoreline Master Program  
City of Enumclaw  
Enumclaw, Washington**

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Prepared for

**City of Enumclaw  
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Enumclaw, Washington 98022**

# TABLE OF CONTENTS

	<u>Page</u>
LIST OF ACRONYMS AND ABBREVIATIONS	vi
1.0 INTRODUCTION	1-1
1.1 OVERVIEW OF THE SHORELINE MANAGEMENT ACT	1-1
1.2 SHORELINE JURISDICTION	1-2
2.0 GOALS AND OBJECTIVES	2-1
2.1 GENERAL SHORELINE JURISDICTION LAND USE	2-1
2.2 ECONOMIC DEVELOPMENT ELEMENT	2-2
2.3 CIRCULATION ELEMENT	2-2
2.4 CONSERVATION ELEMENT	2-3
2.5 PUBLIC ACCESS ELEMENT	2-3
2.6 RECREATION ELEMENT	2-4
2.7 HISTORICAL/CULTURAL RESOURCES, SCIENTIFIC, AND EDUCATIONAL ELEMENT	2-4
2.8 FLOOD DAMAGE MINIMIZATION ELEMENT	2-5
2.9 LAND USE ELEMENT	2-5
3.0 ENVIRONMENT DESIGNATIONS	3-1
3.1 AQUATIC ENVIRONMENT	3-1
3.1.1 Purpose	3-1
3.1.2 Designation Criteria	3-1
3.1.3 Application	3-2
3.1.4 Management Policies	3-2
3.2 URBAN CONSERVANCY ENVIRONMENT	3-2
3.2.1 Purpose	3-2
3.2.2 Designation Criteria	3-3
3.2.3 Application	3-3
3.2.4 Management Policies	3-3
4.0 SHORELINE LAND USES AND MODIFICATIONS	4-1
5.0 SHORELINE PROVISIONS, POLICIES, AND REGULATIONS	5-1
5.1 UNIVERSALLY APPLICABLE PROVISIONS	5-1

5.1.1	No-Net-Loss of Shoreline Functions and Values	5-1
5.1.1.1	Applicability	5-1
5.1.1.2	Policies	5-1
5.1.1.3	Regulations	5-2
5.1.2	Public Access	5-2
5.1.2.1	Applicability	5-2
5.1.2.2	Policies	5-2
5.1.2.3	Regulations	5-3
5.1.3	Vegetation Conservation	5-5
5.1.3.1	Applicability	5-5
5.1.3.2	Policies	5-5
5.1.3.3	Regulations	5-6
5.1.4	Water Quality	5-7
5.1.4.1	Applicability	5-7
5.1.4.2	Policies	5-7
5.1.4.3	Regulations	5-8
5.2	PROVISIONS BASED ON LANDSCAPE OR ENVIRONMENTAL CONDITIONS	5-8
5.2.1	Critical Areas	5-8
5.2.1.1	Applicability	5-8
5.2.1.2	Policies	5-8
5.2.1.3	Regulations	5-9
5.2.2	Archaeological and Historic Resources	5-9
5.2.2.1	Applicability	5-9
5.2.2.2	Policies	5-9
5.2.2.3	Regulations	5-10
5.2.3	Flood Hazard Reduction and River Corridor Management	5-11
5.2.3.1	Applicability	5-11
5.2.3.2	Policies	5-11
5.2.3.3	Regulations	5-12
5.2.4	GEOLOGICALLY HAZARDOUS AREAS	5-15
5.2.4.1	Applicability	5-15
5.2.4.2	Policies	5-15
5.2.4.3	Regulations	5-15
5.3	PROJECT-SPECIFIC PROVISIONS	5-15

5.3.1	Signage	5-15
	5.3.1.1 Applicability	5-15
	5.3.1.2 Policies	5-16
5.3.2	Shoreline Modification	5-16
	5.3.2.1 Applicability	5-16
	5.3.2.2 Policies	5-16
	5.3.2.3 Regulations	5-17
5.3.3	In-Stream Structures	5-18
	5.3.3.1 Applicability	5-18
	5.3.3.2 Policies	5-18
	5.3.3.3 Regulations	5-18
5.3.4	Shoreline Stabilization (Including Bulkheads)	5-19
	5.3.4.1 Applicability	5-19
	5.3.4.2 Policies	5-19
	5.3.4.3 Regulations	5-19
5.3.5	Piers and Docks	5-22
	5.3.5.1 Applicability	5-22
	5.3.5.2 Policies	5-23
	5.3.5.3 Regulations	5-23
5.3.6	Fill	5-23
	5.3.6.1 Applicability	5-23
	5.3.6.2 Policies	5-23
	5.3.6.3 Regulations	5-23
5.3.7	Forest Practices	5-24
	5.3.7.1 Applicability	5-24
	5.3.7.2 Policies	5-24
	5.3.7.3 Regulations	5-25
5.3.8	Breakwaters, Jetties, and Groins	5-25
	5.3.8.1 Applicability	5-25
	5.3.8.2 Policies	5-25
	5.3.8.3 Regulations	5-25
5.3.9	Dredging and Disposal	5-25
	5.3.9.1 Applicability	5-25
	5.3.9.2 Policies	5-25
	5.3.9.3 Regulations	5-26
5.3.10	Mining	5-28
	5.3.10.1 Applicability	5-28
	5.3.10.2 Policy	5-28
	5.3.10.3 Regulations	5-28
5.3.11	Boating Facilities	5-28
	5.3.11.1 Applicability	5-28
	5.3.11.2 Policies	5-28
	5.3.11.3 Regulations	5-28
5.3.12	Shoreline Restoration and Ecological Enhancement	5-29
	5.3.12.1 Applicability	5-29
	5.3.12.2 Policies	5-29
	5.3.12.3 Regulations	5-29
5.3.13	Utilities	5-30
	5.3.13.1 Applicability	5-30
	5.3.13.2 Policies	5-30
	5.3.13.3 Regulations	5-30

5.3.14	Utilities (Accessory)	5-32
5.3.14.1	Applicability	5-32
5.3.14.2	Policies	5-32
5.3.14.3	Regulations	5-33
5.3.15	Parking	5-33
5.3.15.1	Applicability	5-33
5.3.15.2	Policies	5-33
5.3.15.3	Regulations	5-33
5.3.16	Transportation	5-34
5.3.16.1	Applicability	5-34
5.3.16.2	Policies	5-34
5.3.16.3	Regulations	5-35
5.4	PROVISIONS BY LAND USE AND DEVELOPMENT TYPE	5-37
5.4.1	General	5-37
5.4.2	Agriculture	5-37
5.4.2.1	Applicability	5-37
5.4.2.2	Policies	5-37
5.4.2.3	Regulations	5-38
5.4.3	Commercial	5-38
5.4.3.1	Applicability	5-38
5.4.3.2	Policies	5-39
5.4.3.3	Regulations	5-39
5.4.4	Industrial	5-40
5.4.4.1	Applicability	5-40
5.4.4.2	Policies	5-40
5.4.4.3	Regulations	5-40
5.4.5	Recreational	5-40
5.4.5.1	Applicability	5-40
5.4.5.2	Policies	5-40
5.4.5.3	Regulations	5-41
5.4.6	Residential	5-42
5.4.6.1	Applicability	5-42
5.4.6.2	Policies	5-43
5.4.6.3	Regulations	5-43
6.0	ADMINISTRATIVE PROVISIONS	6-1
6.1	SHORELINE PERMIT REVIEW PROVISIONS	6-1
6.2	DOCUMENTATION OF PROJECT REVIEW ACTIONS AND CHANGING CONDITIONS IN SHORELINE AREAS	6-9
6.3	AMENDMENTS TO THIS MASTER PROGRAM	6-10
7.0	DEFINITIONS	7-1

## LIST OF FIGURES

<u>Figure</u>	<u>Title</u>
1A, 1B	Shoreline Environment Designations
2	City Zoning within the Shoreline Jurisdiction

## LIST OF TABLES

<u>Table</u>	<u>Title</u>	
1A	Land Use Matrix for Shoreline Environments	4-1
1B	Land Modification Matrix for Shoreline Environments	4-3
2A	Wetland Buffers	5-11
2B	Required Measures to Minimize Impacts to Wetlands	5-12
2C	Wetland Mitigation Ratios	5-19

## LIST OF APPENDICES

<u>Appendix</u>	<u>Title</u>
A	City of Enumclaw Critical Areas Ordinance No. 2572 for the Shoreline Master Program
B	Shoreline Restoration Plan
C	Shoreline Public Access Plan
D	Cumulative Impact Assessment

## LIST OF ABBREVIATIONS AND ACRONYMS

cfs	Cubic Feet per Second
City	City of Enumclaw, Washington
DAHP	Washington State Department of Archaeology and Historic Preservation
Ecology	Washington State Department of Ecology
EMC	Enumclaw Municipal Code
FEMA	Federal Emergency Management Act
ft	Feet
GMA	Growth Management Act
OHWM	Ordinary High Water Mark
PSDDA	Puget Sound Dredged Disposal Analysis
RCW	Revised Code of Washington
SEPA	Washington State Environmental Policy Act of 1971
SMA	Shoreline Management Act
SMP	Shoreline Master Program
UGA	Urban Growth Area
WAC	Washington Administrative Code
WDFW	Washington State Department of Fish and Wildlife

## **1.0 INTRODUCTION**

The City of Enumclaw (City), Washington has developed its first Shoreline Master Program (SMP), as required under the Washington State Shoreline Management Act (SMA). The SMA was adopted in 1972 “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines,” and has three broad policies:

1. Encourage water-dependent 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 state’s shorelines...”
2. Protect shoreline natural resources, including “...the land and its vegetation and wildlife, and the water of the state and their aquatic life...”
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.”

This document contains goals, policies, and regulations that are intended to ensure that the City permits land uses within the shoreline jurisdiction that meet the policies of the SMA. The implications of the proposed goals, policies, and regulations, as described in this SMP, are to create an additional layer of protections for land within the shoreline jurisdiction, focusing on the protection of critical areas from impacts associated with development, while allowing for zoned and planned land uses. Technical information that supports these goals, policies, and regulations can be found in the City of Enumclaw Shoreline Characterization Report, produced by Landau Associates.

### **1.1 OVERVIEW OF THE SHORELINE MANAGEMENT ACT**

The paramount objectives of the SMA are to protect and restore the valuable natural resources that shorelines represent and to plan for and foster all “reasonable and appropriate uses” that are dependent upon a waterfront location or that offer opportunities for the public to enjoy the state’s shorelines. With this mandate, the SMA establishes a planning and regulatory program to be initiated at the local level under State guidance. The cooperative effort balances local and state-wide interests in the management and development of shoreline areas by requiring local governments to plan (via shoreline master programs) and regulate (via permits) shoreline development within SMA jurisdiction (see Section 1.2) Local government actions are monitored by the Washington State Department of Ecology (Ecology), which approves new or amended SMPs, reviews substantial development permits, and approves conditional use permits and variances.

An abbreviated history of the SMA is summarized below:

- The “Shoreline Management Act of 1971” was passed by the state legislature and became effective June 1, 1971.
- Ecology adopted Chapter 173-16 WAC to serve as a standard for the implementation of the SMA and to provide direction to local governments and Ecology in preparing master programs.
- Over the years, local governments, with the help of Ecology, developed a set of practices and methodologies, which were collected and described in the 1994 Shoreline Management Guidebook (Skowland 1994<sup>1</sup>).
- In 1995, the state legislature passed Engrossed Substitute House Bill 1724, which included several amendments to the Revised Code of Washington (RCW) to better integrate the Growth Management Act (GMA), the Shoreline Management Act (SMA), and the State Environmental Policy Act (SEPA). The bill also directed Ecology to review and update the state SMA guidelines every 5 years. In response, Ecology undertook a primarily internal process to prepare a new WAC chapter (also referred to in this SMP as the “Guidelines”).
- Ecology formally proposed a new Washington Administrative Code (WAC) rule for the SMA in April 1999.
- In 2003, the state legislature further clarified the integration of the SMA and GMA.
- The final version of the Guidelines was adopted December 17, 2003.

## 1.2 SHORELINE JURISDICTION

Pursuant to RCW 90.58.030, “Shorelines” that fall under the jurisdiction of the Shoreline Management Act consist of rivers or streams with a flow of 20 cubic feet per second (CFS) greater, marine shorelines, and lakes 20 acres in size or greater<sup>2</sup>.

In addition to these shorelines, “Shorelands” associated with these waters also fall under the jurisdiction of the SMA. “Shorelands” include the lands that extend landward 200 feet from the Ordinary High Water Mark (OHWM) from “Shorelines”, floodways and contiguous floodplain areas within 200 feet landward of the floodway, and wetlands associated with “Shorelines”<sup>3</sup>. The local jurisdiction has the option to determine the portion of the one-hundred year flood plain to be included in its Master Program, as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two

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<sup>1</sup> Skowland, Peter. 1994. *Shoreline Management Guidebook, Second Edition*. Publication No. 93-104a. Washington State Department of Ecology. January.

<sup>2</sup> RCW 90.58.030(d)

<sup>3</sup> RCW 90.58.030(f)

hundred feet therefrom.<sup>4</sup> There are no Shorelines of Statewide Significance within the City of Enumclaw or its Urban Growth Area.

Shoreline jurisdiction is mapped on Figures 1A and 1B. Within the City and its associated Urban Growth Area (UGA), two streams are considered “shorelines of the state,” Boise Creek and Newaukum Creek. Both creeks begin in the Cascade foothills above the Enumclaw plateau. There are no lakes 20 acres in size or over and there are no Marine shorelines. The remaining streams within the City and UGA flow at less than 20 CFS, and are thus not subject to the SMA. Also included within shoreline jurisdiction shown on Figures 1A and 1B are the areas within 200 feet of Boise and Newaukum Creeks, the 100 year floodplain associated with these creeks and associated wetlands that are contiguous to the 100 year floodplain.

Detailed information related to the geographic application of the SMA, and determination of the City’s shoreline jurisdiction is provided in Addendum No. 1 to the Shoreline Characterization Report dated July 31, 2010.

Note that final shoreline jurisdiction boundaries should be evaluated by the project proposer on a project/property scale when beginning any land use permitting process, in order to verify whether a shoreline permit is applicable to a project or area. In the event of a mapping error, the City will rely upon the common boundary descriptions and the criteria contained in RCW 90.58.020(2) and chapter 173-22 WAC pertaining to the determinations of shorelands rather than the incorrect or outdated map.

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<sup>4</sup> RCW 90.58.030(f)(i)

## **2.0 GOALS AND OBJECTIVES**

The Shoreline Management Act (SMA) identifies eight “program elements” that must be addressed and included in local shoreline master programs: Economic development; public access; recreation; circulation; land use; conservation; flood hazard; and historic, cultural, scientific, and educational. This section presents goals and objectives that apply to the specific shoreline conditions and uses within the City of Enumclaw and its UGA. The goals and objective are derived from the SMA objectives and provisions in the City of Enumclaw Comprehensive Plan, as well as input from citizens.

### **2.1 GENERAL SHORELINE JURISDICTION LAND USE**

General shoreline land use goals for the City include the following:

- A. Identify and reserve shoreline and water areas with unique attributes for specific long-term uses, including commercial, residential, recreational, and open space uses.
- B. Ensure that activities and facilities that are located within the shoreline jurisdiction are designed in such a manner as to retain or improve the quality of the environment.
- C. Ensure that proposed shoreline uses do not infringe upon the rights of others or upon the rights of private property owners.
- D. Encourage shoreline uses that enhance shoreline environment and public access, or that employ innovative features for purposes consistent with this program.
- E. Encourage joint-use activities in proposed shoreline developments.
- F. Ensure that planning, zoning, and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdiction are consistent with SMA and GMA policies and regulations and the provisions of this SMP.
- G. Encourage water-related and water-enjoyment uses.
- H. When determining allowable uses and resolving use conflicts, apply the following preferences and priorities in order of sequence listed below with a. being given top priority.
  1. Water-dependent uses
  2. Water-related uses
  3. Water enjoyment.
- I. Encourage uses and activities that protect and restore ecological functions, control pollution, and prevent damage to the natural environment and public health.
- J. Allow the construction of single- or multiple-family residences where they are appropriate and consistent with the City’s Comprehensive Plan and where they can be developed without significant impact to ecological functions or displacement of water-oriented uses

- K. Allow for non-water-oriented uses where they are consistent with the Comprehensive Plan and where they can be developed without significant impact to ecological functions or displacement of water-oriented uses.

## **2.2 ECONOMIC DEVELOPMENT ELEMENT**

The economic development element considers the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on shorelines of the state. Economic development goals related to shorelines include the following:

- A. Ensure sustainable, orderly economic growth by allowing development and/or redevelopment activities that will be an asset to the community and local economy and that result in the least possible adverse effect on the quality of the shoreline and surrounding environment.
- B. Protect current economic activity that is consistent with the objectives of the Comprehensive Plan and the SMP and that provides for environmentally sensitive new development.
- C. Develop, as an economic asset, the recreation industry along shorelines in a manner that will enhance the public enjoyment of, and public access to shorelines. Encourage improvement of boat launches, marina facilities, and public access trails when coupled with environmental protection and/or restoration.
- D. Ensure that any economic activity taking place along the shoreline operates without harming the quality of the shoreline environment either on site or off site, directly or indirectly.
- E. Encourage new economic development to locate in areas already developed with similar uses that are consistent with the City's Comprehensive Plan including this master program.

## **2.3 CIRCULATION ELEMENT**

Circulation consists of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities. Goals for roads, crossings, or other connections within the shoreline jurisdiction include the following:

- A. Provide safe, reasonable, and adequate circulation systems to shorelines where routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.
- B. To the extent feasible, locate land circulation systems that are not shoreline-dependent in a manner that will reduce or eliminate interference with either natural shoreline resources or other appropriate shoreline uses. Where possible, avoid creating barriers between adjacent uplands (buffers), wetlands, floodplain, and the shoreline jurisdiction.
- C. Protect and enhance those characteristics of shoreline roadway corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.

## **2.4 CONSERVATION ELEMENT**

The conservation element addresses the preservation of natural resources including, but not limited to, scenic vistas, aesthetics, and vital estuarine areas for fish and wildlife. Goals for conservation of ecological functions and processes, as well as aesthetic values within the shoreline jurisdiction, include the following:

- A. As a long-term goal, seek no further degradation of ecological functions and where appropriate, the improvement of functions (as described in the Shoreline Characterization Report).
- B. Ensure that use of a natural resource takes place with the minimum adverse impact to natural systems and quality of the shoreline environment.
- C. Protect areas with high ecological values or functions. Add access and interpretive displays describing the natural ecology for such areas.
- D. Restore areas that are ecologically and/or aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.
- E. Preserve and enhance the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
- F. Pursue a comprehensive program of ecological enhancements as identified in the Shoreline Ecological Restoration Plan (Appendix B).
- G. Minimize the loss of native vegetation and preserve native woody vegetation cover in riparian areas by establishing voluntary, programmatic, or permit-dependent conservation standards.
- H. Encourage public and private shoreline owners to control populations of invasive or noxious plants and animals as defined by King County Noxious Weed Program or other appropriate agency.
- I. Encourage public and private shoreline owners to plant native vegetation with habitat value for wildlife that use shoreline areas.
- J. To the extent feasible, locate and design development to avoid impacts to shoreline natural resources and the functions provided by these resources. Shoreline development projects should follow best management practices that protect water quality.
- K. Consider and, when possible, require protection of scenic vistas of the shorelines of the state when reviewing public and private development proposals.

## **2.5 PUBLIC ACCESS ELEMENT**

The public access element considers public access to publicly-owned land along shorelines of the state. Goals of the public access element are to:

- A. Support the public interest with regard to rights to access waters held in the public trust by the state, while protecting private property rights and public safety, as well as considering impacts on ecological processes and functions.

- B. Protect the rights of navigation and the space necessary for water-dependent uses.
- C. To the greatest extent feasible, consistent with the overall best interests of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.
- D. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.
- E. Work cooperatively with other programs and agencies that are involved in facilitating public access.
- F. Work with citizens of the City to determine appropriate shoreline public access projects and priorities.
- G. Pursue a comprehensive program of public access improvement, as identified in the Shoreline Public Access Plan (Appendix C).

## **2.6 RECREATION ELEMENT**

The recreational element provides for the preservation and improvement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas. Recreation goals include the following:

- A. Increase recreational opportunities in shoreline areas that can reasonably tolerate active, passive, competitive, or contemplative uses without diminishing or degrading the integrity and character of the shoreline.
- B. Coordinate with the Enumclaw Parks, Recreation, and Cultural Services Department to increase opportunities for water-oriented recreation.
- C. Integrate recreational elements into other regional trail systems and into federal, state, and local public access planning.
- D. Ensure existing and proposed recreational uses are safe.
- E. Evaluate opportunities to acquire shoreline property for purposes of public recreation from willing sellers of private property.

## **2.7 HISTORICAL/CULTURAL RESOURCES, SCIENTIFIC, AND EDUCATIONAL ELEMENT**

The historic, cultural resources, scientific, and educational element establishes goals intended to prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected tribes, and the Washington State Department of Archaeology and Historic Preservation (DAHP). Goals for this element include the following:

- A. Identify, protect, preserve, and restore important archaeological, historical, and cultural sites for educational and scientific purposes as well as the enjoyment of the general public.
- B. Encourage educational projects and programs that foster appreciation of the importance of shoreline management, traditional aquatic and shoreland land uses, environmental conservation, and local history.
- C. Encourage cooperation among involved private and public parties to achieve these historic, cultural, scientific, and educational objectives.

## **2.8 FLOOD DAMAGE MINIMIZATION ELEMENT**

The flood damage minimization element considers development patterns and regional programs to minimize the potential for flood damage to property. Goals for flood damage minimization include the following:

- A. Reduce the likelihood of flood damage to property, infrastructure, and habitat within and outside the city limits by locating development away from flood-prone areas and by protecting and restoring natural hydrogeological processes.
- B. Participate in watershed-wide programs to reduce flood hazards and improve the shoreline ecology.
- C. Work cooperatively with other programs to update comprehensive stormwater plans that affect shorelines.
- D. Prioritize flood minimization projects that improve other shoreline ecological functions or that address basin-scale water quantity issues.

## **2.9 LAND USE ELEMENT**

The land use element considers the general distribution, location, and extent of use of the shorelines and adjacent areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private use of the land. Goals for land use include the following:

- A. Consider the policy goals of the Shoreline Master Program when designating land use and zoning within the shoreline jurisdiction.
- B. Consider shoreline ecological functions and watershed or basin-scale processes when designating land use and zoning within the shoreline jurisdiction.

### **3.0 ENVIRONMENT DESIGNATIONS**

The Shoreline Management Act (SMA; RCW 90.58) requires that shoreline management programs classify shoreline areas into specific environmental designations. Shoreline environment designations provide a means of adapting broad policies to shoreline segments while recognizing different conditions and valuable shoreline resources. These designations are intended to serve as a tool for applying and tailoring the general policies of the SMA to local shorelines. The ecological rationale for determining environmental designations can be found in the Shoreline Characterization Report. General locations for environment designations are shown on the shoreline environment designation map (Figure 1A and 1B).

Under this SMP, the City is pre-designating areas located within the UGA, which will become effective following annexation into the City (which is due to occur following completion of appropriate wastewater treatment facility development). Until that time, pre-existing shoreline designations, as described under King County's 1975 Shoreline Master Program (under KCC Title 25 – Shoreline Management) apply to these areas.

Two types of environment designations exist within the City and its UGA: Aquatic and Urban Conservancy (see Figures 1A and 1B). The purpose, designation criteria, and management policies for each designation are described below.

Undesignated shorelines located landward of the ordinary high water mark (OHWM) shall be assigned an Urban Conservancy designation. Undesignated shorelines located waterward of the OHWM shall be designated Aquatic.

#### **3.1 AQUATIC ENVIRONMENT**

##### **3.1.1 PURPOSE**

The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM).

##### **3.1.2 DESIGNATION CRITERIA**

An Aquatic Environment designation is assigned to all shoreline areas waterward of the OHWM. This designation may not be shown on maps due to scale issues, but will apply and must be shown on site-scale maps when applicable.

### **3.1.3 APPLICATION**

The Aquatic Shoreline Environment corresponds with areas waterward of the ordinary high water mark of Boise and Newaukum Creeks, and those areas located waterward of the ordinary high water mark for any wetlands associated with these creeks.

### **3.1.4 MANAGEMENT POLICIES**

- A. New overwater structures should be prohibited except for water-dependent uses, public access, or as needed to facilitate ecological restoration.
- B. The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use or as needed to limit a project's footprint within critical areas.
- C. Provisions for the Aquatic Environment should be directed toward maintaining and restoring habitat for priority aquatic species.
- D. The design of all new structures within the Aquatic Environment shall be located and designed to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife (including large mammals), particularly those species dependent on migration.
- E. Uses that cause significant ecological impacts to critical species or habitats [as defined by the Critical Areas Ordinance or by the Washington State Department of Fish and Wildlife (WDFW)] should be discouraged. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in 5.2.1.3 (D).
- F. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions (unless they are intended to restore hydrologic conditions as part of ecological restoration projects).
- G. Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a usable condition consistent with the provision of this program, unless they provide habitat for wildlife that is otherwise not provided in the landscape (or that habitat will be replaced as an element of the structure removal project).

## **3.2 URBAN CONSERVANCY ENVIRONMENT**

### **3.2.1 PURPOSE**

The purpose of the Urban Conservancy Environment is to protect and conserve the shoreline for ecological, public safety, and recreation purposes. Areas with an Urban Conservancy designation are characterized as containing important ecological processes and functions, sensitive areas, flood and geological hazards, and/or recreational opportunities. Residential areas can also be designated as Urban Conservancy shorelines.

### **3.2.2 DESIGNATION CRITERIA**

- A. The Urban Conservancy Environment designation is intended to protect and restore the public benefits and ecological functions of open space, natural areas, and other sensitive lands while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses.
- B. Areas that may be included in Urban Conservancy Shoreline are:
  - 1. Shoreline reaches primarily within an identified Federal Emergency Management Agency (FEMA) floodway or severe channel migration hazard zone;
  - 2. River shorelines with a restoration plan determination of conservation and/or enhancement;
  - 3. Shorelines in public ownership and managed for public access or recreation;
  - 4. Shoreline not suitable, or less suitable, for water dependent uses;
  - 5. Floodplains, steep slopes, or other areas that should not be more intensively developed;
  - 6. Shorelines with a high potential for ecological restoration; or
  - 7. Shorelines that provide or have the opportunity to provide important ecological functions, even though they are partially developed.

### **3.2.3 APPLICATION**

The Urban Conservancy Environment includes areas within the shoreline jurisdiction that are zoned Public and Residential (R1, R2), as shown on Figure 2. Areas within the 100 year flood plain of Boise and Newaukum Creeks and those areas that are wetlands contiguous to the 100 year flood plain are designated Conservancy.

### **3.2.4 MANAGEMENT POLICIES**

- A. Primary uses in the Urban Conservancy Environment should be those that preserve the natural character of the area, promote preservation of open space, floodplain or sensitive areas either directly or over the long term.
- B. The continuation of existing agriculture uses should be allowed
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy

Environment to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat for priority species.

E. Water-oriented and water enjoyment uses should be given priority over non-water-oriented uses.

F. The City should require that new uses or development preserve the existing character of the shoreline consistent with the purpose of the environment, including:

1. Limiting density and lot coverage so that the total effective impervious surface in the shoreline jurisdiction is no greater than 10 percent in order to maintain the existing hydrologic character of basins draining to the shoreline;
2. Allowing for greater lot coverage for development of lots legally created prior to the date of adoption of this SMP. In these cases, impervious surface coverage shall be limited to the maximum extent practicable; and
3. Derelict, unsafe, and unlawful structures should be removed or brought into conformance with this SMP.

## 4.0 SHORELINE LAND USES AND MODIFICATIONS

All shoreline development must conform to the Universally Applicable Provisions (Section 5.1), the Provisions Based on Landscape or Environmental Conditions (Section 5.2), the Project-Specific Provisions (Section 5.3), and/or the Provisions by Land Use and Development Type (Section 5.4), as well as the Environment Designation Provisions (see Section 3) as stated in this master program. This section may not authorize a land use that is not allowed by the underlying zoning, but may add additional restrictions or conditions, or prohibit specific land uses within the shoreline jurisdiction. All uses in the shoreline jurisdiction must comply with all relevant Enumclaw Municipal Code (EMC) provisions and with the Enumclaw SMP. When there is a conflict between the permitted land uses in the EMC and shoreline uses in this section, preference for shoreline uses shall first be given to water-dependent uses, then to water-related uses, and finally to water-enjoyment uses, in keeping with the Goals and Objectives of the Program (see Section 2).

The following matrices (Tables 1A and 1B) indicate the allowable uses and shoreline modifications and some of the standards applicable to those uses and modifications. Where there is a conflict between the matrices and the written provisions in this master program, the written provisions shall apply.

The matrices below are coded according to the following legend. See also “Notes” following the matrices for additional explanation, where applicable.

- P May be permitted, given adherence to relevant provisions in the SMP text.
- C May be permitted as a conditional use only, given adherence to relevant provisions in the SMP text.
- X Prohibited; the use is not eligible for a variance or conditional use permit.

**TABLE 1A: LAND USE MATRIX FOR SHORELINE ENVIRONMENTS**

SHORELINE USE	SHORELINE ENVIRONMENT DESIGNATION	
	Aquatic	Urban Conservancy
Agriculture	X	P (b)
Aquaculture	P(f)	P(f)
Boating facilities (including marinas)	X	X
Commercial:		
Water-dependent	P (a,b)	P (a,b)
Water-related, water-enjoyment	X	P (a,b)
Non-water-oriented	X	X
Flood damage management	X	P (b)
Forest practices	X	X
Industrial:		
Water-dependent	X	X
Water-related, water-enjoyment	X	X
Non-water-oriented	X	X
Mining	X	X
Parking (accessory)	X	P (b)
Parking (primary, including paid)	X	X
Recreation:		
Water-dependent	P (b)	P(b)
Water-related, water-enjoyment	P (a,b)	P (a,b)
Non-water-oriented	X	P (a,b)
Single-family residential	X	P (a,b)
Multifamily residential	X	P (a,b)
Land division	X	P (a,b)
Signs:		
On premises	X	P (b)
Off premises	X	P (b)
Solid waste disposal	X	X
Transportation:		
Water-dependent	X	X
Non-water-oriented	X	C (a,d,e)
Roads, railroads	C (a,d,e)	P (a,d,e)
Utilities (primary)	C (a,d,e)	C (a,d,e)
Utilities (accessory)	C (a,d,e)	P (a,d,e)

**TABLE 1B**  
**LAND MODIFICATION MATRIX FOR SHORELINE ENVIRONMENTS**

SHORELINE MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATION	
	Aquatic	Urban Conservancy
Shoreline stabilization:		
Bioengineering	P (c,e)	P (c), C (b,e)
Revetments	X	X
Bulkheads	X	X
Breakwaters/jetties/rock weirs/groins	X	X
Dikes, levees	X	P (b)
Shoreline restoration/enhancement	P (b)	P (b)
Dredging	X	X
Hazardous waste cleanup	P (b), C (a,d)	P (b), C (a,d)
Fill	P (c)	P (c), C (b,e)
Piers, docks, buoys, floats	X	X

**Notes for Tables 1A and 1B:**

- (a) Public access, as approved by the City, is a condition of non-water-dependent development.
- (b) May be allowed provided it does not cause significant negative ecological impacts and is in keeping with underlying zoning.
- (c) May be permitted within critical areas, as part of restoration project that is not connected to a new development project, or if the City determines that there will be a demonstrated net increase in desired shoreline ecological functions
- (d) May be allowed providing there is no other feasible route or location and ecological impacts are mitigated for.
- (e) Fill within the floodway or wetlands requires a conditional use permit.
- (f) Fish and wildlife resource enhancement, including aquaculture related to fish propagation are allowed and encouraged. In addition, the use of scientific devices, including fry traps and water quality monitoring equipment are allowed.

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## **5.0 SHORELINE PROVISIONS, POLICIES, AND REGULATIONS**

This section contains provisions, policies, and regulations (grouped as provisions) designed to implement the goals of the SMP. This section is organized into four subsections. The first subsection sets forth universal policies and regulations that are applicable to all uses and activities (regardless of local environmental conditions, land use type or project type) that may occur in the jurisdiction's shorelines, followed by specific policies and regulations that are applicable to specific environmental conditions, specific project types, and specific land use types. It is intended that any proposed project within the shoreline jurisdiction will fall under one or more of the groups of provisions, without contradiction among provisions. If contradicting provisions exist for a project that falls under more than one groups of provisions, those meeting the intent of the SMP (as described in Section 2, Goals and Objectives), as interpreted by the City, shall prevail.

### **5.1 UNIVERSALLY APPLICABLE PROVISIONS**

#### **5.1.1 NO-NET-LOSS OF SHORELINE FUNCTIONS AND VALUES**

##### **5.1.1.1 Applicability**

The following regulations describe the requirements for all shoreline uses and modifications in all environment designations.

##### **5.1.1.2 Policies**

- A. Where appropriate, the City will pursue the policies of this master program in other land use, development permitting, public construction, and public health and safety activities. Specifically, such activities include, but are not limited to:
  - 1. Water quality and stormwater management activities, including those outside shoreline jurisdiction but affecting the shorelines of the state.
  - 2. Vegetation management on private and publicly owned properties.
  - 3. Health and safety activities, especially those related to sanitary sewage.
  - 4. Public works and utilities development.
- B. Involve affected federal, state, and tribal governments, and citizens in the review process of shoreline applications.

### **5.1.1.3 Regulations**

- A. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA, Chapter 90.58 RCW, and to the policies and regulations of this master program.
- B. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this master program. Except as otherwise noted, all shoreline modifications not associated with a legal existing use or an approved shoreline use are prohibited.
- C. Shoreline uses, modifications, and conditions listed as “prohibited” shall not be eligible for consideration as a shoreline variance or shoreline conditional use permit.
- D. The “policies” listed in this master program will provide broad guidance and direction and will be used by the City in applying the “regulations.”
- E. Where provisions of this master program conflict, the provisions most directly implementing the objectives of the SMA, as determined by the City, shall apply unless specifically stated otherwise.
- F. See Section 6 for regulations, including exemptions, variances, conditional uses, and non-conforming uses.

## **5.1.2 PUBLIC ACCESS**

### **5.1.2.1 Applicability**

Shoreline public access is the physical ability of the general public to reach and touch the water’s edge and/or the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, promenades, viewing towers, bridges, and improved street ends.

### **5.1.2.2 Policies**

- A. Public access should be considered in the review of all private and public developments (including land division) with the exception of the following:
  - 1. Single family residences not part of a development planned for more than four parcels; or
  - 2. Where deemed inappropriate due to health, safety, and environmental concerns.
- B. Developments, uses, and activities on or near the shoreline should not impair or detract from the public’s access to the water or the rights of navigation.
- C. Public access should be provided as close as possible to the water’s edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.

- D. Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities, and rights-of-way should be preserved, maintained, and enhanced.
- E. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.
- F. Public views from the shoreline upland areas should be enhanced and preserved. Native vegetation that provides ecological benefits to the stream and/or shoreline should not be removed for the purpose of enhancing views.
- G. Public access and interpretive displays should be provided as part of publicly funded restoration projects where significant ecological impacts can be avoided.
- H. Commercial waterfront development should be encouraged to provide a means for visual and pedestrian access to the shoreline area wherever feasible.
- I. The acquisition of suitable upland shoreline properties to provide access to publicly owned shorelands should be encouraged.

### **5.1.2.3 Regulations**

- A. Public access shall be required for all non-water dependent developments except for the following per WAC 173-26-241:
  - 1. Short subdivisions creating less than five lots;
  - 2. Construction of a single family residence or single family residential project containing less than five dwelling units.
- B. Shoreline substantial developments or conditional uses shall provide public access where any of the following conditions are present:
  - 1. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact.
  - 2. Where a development or use will interfere with an existing public accessway, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing onsite or nearby accesses.
  - 3. Where a use that is not a priority shoreline use under the SMA locates on a shoreline of the state, the use or development shall provide public access to mitigate this impact.
  - 4. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact.
  - 5. Where the development is proposed by a public entity or on public lands.

6. Where called for under the City's public access plan.
- C. An applicant need not provide public access where the City determines that one or more of the following conditions apply.
1. The adopted City's public access planning indicates that public access is not required;
  2. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
  3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  4. As determined by the City, the cost of providing the access, easement, or alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development (in this case, the City may determine that an offsite mitigation option is more appropriate);
  5. Significant ecological impacts will result from the public access that cannot be mitigated; or
  6. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
- D. In order to meet any of the conditions 1 through 6 above, the applicant must first demonstrate, and the City determine in its findings, that all reasonable alternatives have been exhausted, including but not limited to:
1. Regulating access by such means as maintaining a gate, lighting, and/or limiting hours of use;
  2. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and
  3. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista, or trail system.
- E. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished per RCW 35.79.035 and RCW 36.87.130.
- F. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.
- G. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
- H. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, at a minimum. Recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).

- I. Minimum width of public access easements shall be 20 ft, unless the City determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.
- J. The standard state-approved logo or other approved signs that indicate the public’s right of access and hours of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval. Refer to Section 5.3.1.
- K. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

### **5.1.3 VEGETATION CONSERVATION**

#### **5.1.3.1 Applicability**

The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, application of herbicide, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. They do not apply to forest practices managed under the Washington State Forest Practices Act, except for Class IV-G forest practices permits in shoreline jurisdiction which are required to comply with Vegetation Conservation Policies and Regulations provided under SMP 5.1.3. See Section 7 for definitions of “significant vegetation removal,” “ecological functions,” “clearing,” “grading,” and “restore.”

#### **5.1.3.2 Policies**

- A. Vegetation within the shoreline jurisdiction should be enhanced over time to provide a greater level of ecological functions, human safety, and property protection. To this end, shoreline management activities, including the provisions and implementation of this master program, should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline, as described in the Shoreline Inventory and Characterization Report.
- B. This master program, in conjunction with other City development regulations, should establish a coordinated and effective set of provisions and programs to protect and restore those functions provided by shoreline vegetation.
- C. Aquatic weed management is not permitted unless performed in conjunction with an approved restoration or mitigation project.

### 5.1.3.3 Regulations

#### *For All Shoreline Environments*

- A. The creation of new land parcels or lots that would require significant vegetation removal in order to develop is not allowed. In order to create a new lot partially or wholly within shoreline jurisdiction, the applicant must demonstrate that development can be accomplished without significant vegetation removal. The City may make exceptions to this standard for water-dependent development, if applicable.
- B. All development, including clearing and grading, shall minimize significant vegetation removal in shoreline jurisdiction to the extent feasible. In order to implement this regulation, applicants proposing development that includes significant vegetation removal, clearing, or grading within shoreline jurisdiction must provide, as a part of a substantial development permit or a letter of exemption application, a site plan, drawn to scale, indicating the extent of proposed clearing and/or grading within 100 ft of the OHWM. The City may require that the proposed development or extent of clearing and grading be modified to reduce the impacts to ecological functions or require additional onsite mitigation.
- C. In addressing impacts from significant vegetation removal, the City will apply the mitigation sequencing per Section 5.2.1.3 (D).
- D. Vegetation restoration of any shoreline that has been disturbed or degraded shall use native plant materials that the City finds appropriate for the conditions.
- E. Where shoreline restoration is required, the vegetation plantings shall adhere to the specifications in Appendix B unless the City determines that another method is more appropriate.
- F. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses, human activities, or permanent resource use or production, shall be revegetated and enhanced with native woody and herbaceous vegetation.
- G. The enhancement of vegetation shall be a condition of all new non-water-dependent uses, with the exception of agricultural uses (crop, grazing, or forest production) development except where the City finds that:
  - 1. Vegetation enhancement is not feasible on the project site (in these cases, the City may require offsite vegetation enhancement that performs the same ecological functions within the basin.), or
  - 2. The restoration of ecological processes and functions can be better achieved through other measures such as the removal of channel constraints, or
  - 3. Sufficient native vegetation already exists.
- H. Noxious weed removal, as listed by the state in WAC 16-750, can be permitted with a shoreline exemption so long as no native vegetation is impacted.

- I. Minor vegetation removal, not including the removal of trees, may be done to provide for development and maintenance of public access and trails on public property, as well as to address public health and safety concerns, provided impacts are mitigated.

#### ***For Shorelines in the Urban Conservancy Environments***

- A. For properties within areas planned for residential development, new development that will cause significant permanent vegetation removal shall not be allowed except where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area or where the denial of reasonable use would result in a takings. In these instances, the City will apply the mitigation sequence in Section 5.2.1.3 (D) to minimize ecological impacts. Generally, this will mean placing the development away from the shoreline as far as possible, locating the development to avoid tree cutting, and modifying building dimensions to reduce permanent vegetation removal. Refer to Section 6.2, Variances.

#### ***For Shorelines in the Aquatic Environment***

- A. Aquatic weed control shall not be allowed unless in conjunction with an approved restoration project. Aquatic weed control shall occur in compliance with all other applicable laws and standards.
- B. The control of aquatic or emergent weeds (within riparian or wetland areas) by derooting, rotovating, or other method that disturbs the bottom sediment, stream bank, or wetland soils shall be considered development for which a substantial development permit is required.
- C. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control is demonstrated to be in the public's interest. A conditional use permit shall be required in such case.

### **5.1.4 WATER QUALITY**

#### **5.1.4.1 Applicability**

The following section applies to all development and uses in shoreline jurisdiction that affect water quality (per definitions).

#### **5.1.4.2 Policies**

- A. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts by altering water quality, quantity, or hydrology.
- B. The City should require setbacks, buffers, and stormwater storage basins and encourage low-impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
- C. All measures for controlling erosion, stream flow rates, or floodwaters through the use of stream control works should be located, designed, constructed, and maintained so that net offsite impacts related to water do not degrade the existing water quality.

- D. As a general policy, the City will seek to improve water quality, quantity, and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines as well as local shoreline functions, within shoreline jurisdiction.
- E. The City will regulate development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and through coordination with other local, state, and federal water quality regulations and programs.
- F. The City will implement the 2005 Washington State Department of Ecology (Ecology) Stormwater Manual for Western Washington as adopted, or as may be amended.

#### **5.1.4.3 Regulations**

- A. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affected. Control measures include, but are not limited to, catch basins or settling ponds, created treatment wetlands, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
- B. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with this master program.

## **5.2 PROVISIONS BASED ON LANDSCAPE OR ENVIRONMENTAL CONDITIONS**

### **5.2.1 5.CRITICAL AREAS**

#### **5.2.1.1 Applicability**

The following policies and regulations, as well as the shoreline-specific Critical Areas Regulations as contained in Appendix A, apply to all uses and development in shoreline jurisdiction.

#### **5.2.1.2 Policies**

- A. In implementing this master program, the City will take necessary steps to ensure compliance with Chapter 43.21 RCW, the Washington State Environmental Policy Act of 1971 (SEPA), and its implementing guidelines.
- B. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and offset with appropriate mitigation.
- C. No-net-loss of ecological functions will occur as a result of land use practices, as permitted by the City.

### **5.2.1.3 Regulations**

The following regulations, as well as the shoreline-specific Critical Areas Regulations as contained in Appendix A shall Apply:

#### ***For All Critical Areas***

- A. All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21c RCW, the Washington SEPA.
- B. Projects that cause significant ecological impacts, as defined in Section 7, Definitions, are not allowed unless mitigated according to the sequence in Item D, below, to avoid reduction or damage to ecosystem-wide processes and ecological functions (as described in the Shoreline Characterization Report).
- C. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be mitigated according to the mitigation sequence (see definition of “mitigation” in Section 7, Definitions).
- D. The City will set mitigation requirements or permit conditions based on impacts identified. In determining appropriate mitigation measures, avoidance of impacts by means such as relocating or redesigning the proposed development will be applied first. Lower priority measures will be applied only after higher priority measures are demonstrated to be not feasible or not applicable (see definition of “feasible” in Section 7, Definitions).
- E. All shoreline development shall be located and constructed to avoid significant adverse impacts to human health and safety.
- F. Some degree of ecological restoration or enhancement will be a condition of all new development within all critical areas and/or critical buffers (as defined under Critical Areas Ordinance) located within the shoreline jurisdiction.

## **5.2.2 ARCHAEOLOGICAL AND HISTORIC RESOURCES**

### **5.2.2.1 Applicability**

- A. The following provisions apply to archaeological and historic resources that are either recorded at the Washington State Department of Archaeology and Historic Preservation (DAHP) and/or by local jurisdictions or have been inadvertently uncovered.
- B. 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 shall comply with Chapter 25-48 WAC as well as the provisions of this section.

### **5.2.2.2 Policies**

- A. Due to the limited and irreplaceable nature of the resource, public or private uses, activities, and development should be prevented from destroying or damaging any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities and deemed worthy of protection and preservation.

### 5.2.2.3 Regulations

- A. All shoreline permits shall contain provisions that require developers to immediately stop work and notify the City, State Office of Archaeology and Historic Preservation, and affected Indian Tribes if any features or artifacts of possible archaeological value are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged or mapped.
- B. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by an archaeologist in coordination with the affected Indian tribes. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins or resumes on a project, as authorized by DAHP.
- C. Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and public observation. When the City or DAHP determines that a site has significant archaeological, natural, scientific, or historical value, a Substantial Development Permit shall not be issued that would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
- D. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify Ecology, the State Attorney General's Office, and DAHP of such a waiver in a timely manner.
- E. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 as well as the provisions of this master program.
- F. Archaeological excavations may be permitted subject to the provisions of this program.
- G. Identified historical or archaeological resources shall be considered in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
- H. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.
- I. The City will work with affected tribes and other agencies to protect Native American artifacts and sites of significance and other archaeological and cultural resources as mandated by Chapter 27.53 RCW.

## **5.2.3 FLOOD HAZARD REDUCTION AND RIVER CORRIDOR MANAGEMENT**

### **5.2.3.1 Applicability**

The provisions in this section apply to those areas within shoreline jurisdiction, including rivers, streams, and associated wetlands in the floodplain. The provisions in this section are intended to address two concerns especially relevant to river shorelines:

- A. Protecting human safety and minimizing flood hazard to human activities and development.
- B. Protecting and contributing to the restoration of ecosystem-wide processes and ecological functions found in the applicable watershed or sub-basin.

### **5.2.3.2 Policies**

- A. Implement a comprehensive program to manage the City's riparian corridors that integrates the following City ordinances and activities:
  1. Regulations in this master program.
  2. The City's Critical Area Ordinance.
  3. The City's zoning ordinance.
  4. The City's stormwater management plan and implementing regulations.
  5. The construction, removal, or improvement of facilities, including roads, dikes, utilities, bridges, culverts, ditches, and other structures that affect drainage.
  6. The ecological restoration of shoreline jurisdiction areas.
- B. In regulating development on shorelines within SMA jurisdiction, endeavor to achieve the following:
  1. Maintenance of human safety.
  2. Protection and, where appropriate, the restoration of the physical integrity of the ecological system processes, including water and sediment transport and natural channel movement.
  3. Protection of water quality and natural groundwater (including seasonally high water tables and shallow groundwater) movement.
  4. Protection of fish, vegetation, and other life forms and their habitat vital to the aquatic food chain.
  5. Protection of existing legal uses and legal development unless the City determines relocation or abandonment of a use or structure is the only feasible option or that there is a compelling reason to the contrary based on public concern and the provisions of the SMA.
  6. Protection of recreation resources and aesthetic values, such view points, trails, and other shore features and scenery.

- C. Undertake flood hazard planning, where practical, in a coordinated manner among affected property owners and public agencies and consider entire drainage systems or sizable stretches of river shorelines. This planning should consider the offsite (or outside of City boundaries or UGA) erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities. Flood hazard management planning should fully employ non-structural approaches to minimizing flood hazard to the extent feasible. Planning should follow guidance provided by the Federal Emergency Management Agency (FEMA), including “Managing Floodplain Development Through the National Flood Insurance Program.”
- D. Give preference to and use non-structural solutions over structural flood control devices wherever feasible, including prohibiting or limiting development in historically flood-prone areas, regulating structural design and limiting increases in peak stormwater runoff from new upland development, public education, and land acquisition for additional flood storage. Structural solutions to reduce shoreline hazard should be allowed only after it is demonstrated that non-structural solutions would not be able to reduce the hazard.
- E. In designing publicly financed or subsidized works, give consideration to providing public pedestrian access to the shoreline for low-impact outdoor recreation.
- F. Encourage the removal or breaching of dikes to provide greater wetland area for floodwater storage and habitat, provided that such an action does not increase the risk of flood damage to existing human development.

### **5.2.3.3 Regulations**

- A. The applicant shall provide the following information as part of a shoreline permit application.
  - 1. Location of the ordinary high water mark (OHWM), 100-year floodplain boundary, floodway boundary as defined by FEMA, and bankfull width boundary.
  - 2. Location and description of stormwater management features.
  - 3. Location and description of frequently flooded areas, critical aquifer recharge areas, and wetlands, if present.
  - 4. Existing shoreline stabilization and flood-protection works on the site.
  - 5. Physical, geological, and soil characteristics of the area.
  - 6. Predicted impacts upon area shore and ecological processes, adjacent properties, and shoreline and water uses.
  - 7. Analysis of alternative construction methods, development options, or flood protection measures, both structural and non-structural.
  - 8. Description of existing shoreline vegetation and measures to protect existing vegetation and to re-establish vegetation.
- B. New development must be consistent with Items 1 through 5 below in addition to the provisions of this master program. In cases of inconsistency, the provisions most protective of shoreline ecological functions and processes shall apply:

1. The applicable provisions of the City floodplain regulations adopted under Chapter 86.16 RCW.
  2. The Preliminary Flood Insurance Rate Maps and Flood Insurance Study for King County, Washington (or most recent), prepared by FEMA in accordance with Chapter 86.16 RCW and the National Flood Insurance Program.
  3. Guidance provided by FEMA, including “Managing Floodplain Development Through the National Flood Insurance Program.”
  4. The most recent Ecology Stormwater Manual.
  5. Conditions of Hydraulic Project Approval, issued by Washington State Department of Fish and Wildlife, may be incorporated into permits issued for flood protection.
- C. New structural flood hazard reduction measures, including dikes, levees, and overflow channels, may be allowed only when all of the following can be demonstrated:
1. The project does not further restrict natural channel movement, except that flood hazard reduction measures that protect an existing building, roadway, bridge, or utility line may be installed, provided the measure is placed as close to the existing structure as possible;
  2. Other, non-structural measures, would not be feasible or adequate;
  3. The measures are necessary to protect existing development or new public development, such as a roadway, that cannot be located further from the stream channel; and
  4. Shoreline vegetation necessary to provide ecological functions is protected or restored prior to approval of a structural flood hazard reduction method.
- D. New flood hazard reduction measures, including dikes and levees, may be constructed to protect properties as part of a shoreline environmental restoration project, such as the breaching of a dike to create additional wetlands.
- E. When allowed, flood hazard reduction measures shall employ the type of construction or measure that causes the least significant ecological impacts. The City will require that the construction method with the least negative significant ecological impacts be used. For example, the City will not allow rock revetments to be used for erosion control if a “softer” approach using vegetation plantings and engineered woody debris placement is possible.
- F. Existing hydrological connections into and between water bodies, such as streams, tributaries, wetlands, and dry channels, shall be maintained. Where feasible, natural surface and shallow subsurface flow to obstructed channels shall be re-established as a condition of non-water-dependent uses, development in the 100-year floodplain, and structural flood hazard reduction measures.
- G. Re-establishment of native woody vegetation waterward of any new structure located within a stream buffer within the shoreline jurisdiction is required. The City may require re-establishment of vegetation on and landward of the structure if it determines such vegetation is necessary to protect and restore ecological functions.

- H. Designs for flood hazard reduction measures and shoreline stabilization measures in river corridors must be prepared by qualified professional engineers (or geologists or hydrologists) who have expertise in local riverine processes.
- I. Structural flood hazard reduction projects that are continuous in nature, such as dikes or levees, shall provide for public access unless the City determines that such access is not feasible or desirable according to the criteria in the “Public Access” section of the Shoreline Characterization Report or more recent information.
- J. Refer to the use, shoreline modification and development standards (Tables 1a and 1b, the Shoreline Land Use and Modification Matrices, in Section 4) for allowable uses and modification and development standards such as setbacks and clearing and grading within each environment designation.
- K. Residential, commercial, and industrial uses that may be damaged by flooding are prohibited in 100-year floodplains. In determining whether a use may be damaged, the city should consider its location, its design, the extent to which development has occurred in the floodplain, and whether emergency access will be available during flood events.
- L. Hospitals, health care facilities, nursing homes, and retirement homes are prohibited within 100-year floodplains.
- M. Residential, commercial, and industrial subdivisions and short subdivisions shall be designed so that each lot will have a building site outside the 100-year floodplain, and new buildings shall be located outside the 100-year floodplain. The subdivision’s internal street system should be laid out to provide access to each lot that is passable by passenger cars during a 100-year flood event. This street system should be located outside of the floodplain, as well.
- N. Bridges, culverts, and other waterway crossings shall be designed and constructed to meet the WDFW Water Crossing Design Guidelines (Barnard et al. 2013) so they do not restrict flood flows, and so that they are not impacted by debris flows during flood events. Where a bridge, culvert, or other waterway crossing replaces an existing crossing, the replacement structure shall not increase flood heights over those caused by the original structure.
- O. The removal of stream bed gravels for flood control may only be allowed if all of the following conditions are met:
  - 1. It is determined by a qualified fish biologist that the substrate is not suitable for fish habitat (foraging, refuge, or spawning);
  - 2. A biological and geomorphologic study demonstrates a long-term benefit to flood hazard reduction;
  - 3. It is demonstrated that no net loss of ecological functions will occur; and
  - 4. Extraction is part of a comprehensive flood management solution that includes restoration of hydrologic functions.

## **5.2.4 GEOLOGICALLY HAZARDOUS AREAS**

### **5.2.4.1 Applicability**

The following provisions apply to any activity that impacts a geologically hazardous area as defined by the City of Enumclaw Critical Area Ordinance.

### **5.2.4.2 Policies**

- A. New development or the creation of new lots and/or shoreline stabilization structures should not be allowed within or near geologically hazardous areas except where there is no feasible alternative location and no net loss of ecological functions will result.

### **5.2.4.3 Regulations**

- A. New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall not be allowed.
- B. New development or the creation of new lots that would require structural shoreline stabilization is not allowed except where necessary to protect allowed uses; where no alternative locations are available and no net loss of ecological functions would result.
- C. Stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with Section 5.3.4 only where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible and less expensive than the proposed stabilization measure.

## **5.3 PROJECT-SPECIFIC PROVISIONS**

The policies and regulations in this section are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. This section provides policies and regulations that are intended to provide additional clarification or add more restrictive language to the general provisions described in Sections 5.1 or 5.2.

### **5.3.1 SIGNAGE**

#### **5.3.1.1 Applicability**

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification, or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

### **5.3.1.2 Policies**

- A. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
- B. Signs should not block or otherwise interfere with visual access to the water or shorelands.
- C. Sign design may be modified at the discretion of the City.

### **5.3.2 SHORELINE MODIFICATION**

Shoreline modifications are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modification activities include, but are not limited to, structures such as revetments, bulkheads, levees, breakwaters, docks, and floats. Actions such as clearing, grading, landfilling, and dredging are also considered shoreline modifications.

#### **5.3.2.1 Applicability**

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties.

#### **5.3.2.2 Policies**

- A. Structural shoreline modifications should be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
- B. The adverse effects of shoreline modifications should be reduced and, as much as possible, shoreline modifications should be not increase in number or extent from existing conditions to the extent practicable.
- C. Allowed shoreline modifications should be appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
- D. The City should take steps to 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.
- E. Where applicable, the City should base provisions on “best available science,” scientific and technical information, and a comprehensive analysis of site-specific conditions for river and stream systems.

- F. Impaired ecological functions should be enhanced and/or restored where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, the City should incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
- G. In reviewing shoreline permits, the City should require steps to reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e).
- H. When shoreline modifications are necessary, they should be as compatible as possible with ecological shoreline processes and functions.

### **5.3.2.3 Regulations**

- A. All shoreline modification activities must be in support of a permitted shoreline use. Shoreline modification activities that do not support a permitted shoreline use are considered “speculative” and are prohibited by this master program; unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resource values.
- B. Structural shoreline modification measures shall be permitted only if non-structural measures are unable to achieve the same purpose. Non-structural measures considered shall include alternative site designs, increased setbacks, drainage improvements, relocation, and vegetation enhancement.
- C. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative.
- D. All new shoreline development shall be located and designed to prevent or minimize the need for shoreline modification activities.
- E. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.
- F. In addition to the permit information required by WAC 173-27-190, the City shall require and consider the following information when reviewing shoreline modification proposals:
  - 1. Construction materials and methods.
  - 2. Project location relative to the ordinary high water mark (OHWM).
  - 3. General direction and speed of prevailing winds.
  - 4. Profile rendition of beach and uplands.
  - 5. Beach and upland soil type, slope, and material.
  - 6. Physical or geologic stability of uplands.
  - 7. Potential impact to natural shoreline processes, adjacent properties, and upland stability.

- G. Shoreline modification materials shall be only those approved by applicable state agencies. No toxic (e.g., creosote) or quickly degradable materials (e.g., plastic or fiberglass that deteriorates under ultraviolet exposure) shall be used.

### **5.3.3 IN-STREAM STRUCTURES**

#### **5.3.3.1 Applicability**

- A. In-stream structures are constructed waterward of the OHWM and either cause or have the potential to cause water impoundment or diversion, obstruction, or modification of water flow. They typically are constructed for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreational, or fisheries enhancement. Both the structures themselves and their support facilities are covered by this section. This section applies to their construction, operation, and maintenance, as well as the expansion of existing structures and facilities.

#### **5.3.3.2 Policies**

- A. In-stream structures should be allowed only for the purposes of environmental restoration.
- B. They should only be allowed following mitigation sequencing per Section 5.2.1.3 (D), and given a demonstrated public or ecological need.
- C. They should provide for the protection, preservation, and restoration 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, hydrogeological processes, and natural scenic vistas.
- D. They may not be permitted if they are opposed by another regulatory authority, such as WDFW.

#### **5.3.3.3 Regulations**

- A. In-stream structures are permitted only for the purposes of environmental restoration or as necessary to serve a public need.
- B. In-stream structures may be required to provide public access, provided public access improvements do not create significant ecological impacts or other adverse environmental impacts to and along the affected shoreline nor create a safety hazard to the public.
- C. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.
- D. Required public access sites shall be dedicated for public use through fee acquisition or recorded easement. The public access provisions in Section 5.1.2 apply.
- E. In-stream structures may be permitted only with authorization from WDFW.

## **5.3.4 SHORELINE STABILIZATION (INCLUDING BULKHEADS)**

### **5.3.4.1 Applicability**

- A. Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, or essential structures caused by natural processes, such as current, flood, or wind. These include structural and non-structural methods. Non-structural methods include building setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization. “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete walls, while “soft” shoreline stabilization using natural materials such as large woody material, natural beach enhancement, or vegetation stabilization for protective berms are strongly preferred over structural shoreline stabilization made of materials such as steel, wood, rock, or concrete.
- B. WAC 173-27-040(2)(b) defines normal replacement and repair of existing structures and notes that normal maintenance and repair actions are not exempt from substantial development permits if they “cause substantial adverse effects to shoreline resources or the environment.”
- C. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

### **5.3.4.2 Policies**

- A. “Soft” shoreline stabilization of natural materials such as protective berms, large woody debris, beach enhancement or vegetation stabilization are strongly preferred over structural shoreline stabilization made of materials such as steel, wood, or concrete. Non-structural or “soft” measures have less adverse and cumulative impacts on shore features and habitats.
- B. Proposals for structural solutions including bulkheads should demonstrate that natural methods are unfeasible for engineering and/or geotechnical reasons.
- C. Bulkheads should not be allowed, as they are not necessary in within the shoreline jurisdiction of the City and its UGA.
- D. Other structural stabilizations should be located, designed, and constructed primarily to prevent damage to existing development and minimize adverse impacts to ecological functions.
- E. New development requiring bulkheads and/or similar protection should not be allowed.
- F. Shoreline uses should be located in a manner so that bulkheading and other structural stabilization are not likely to become necessary in the future.

### **5.3.4.3 Regulations**

- A. New stabilization measures to protect an existing primary structure are only allowed when necessity is demonstrated as follows:
  - 1. New or enlarged structural shoreline stabilization measures shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents. Normal sloughing, erosion of steep

bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis by a licensed geotechnical engineer or related licensed professional, is not demonstration of need. The geotechnical report must include estimates of erosion rates and damage within three years and must evaluate onsite drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement as a means of reducing undesirable erosion; and

2. The structure will not reduce shoreline functions, given appropriate mitigation.
- B. New development shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization, including structural shoreline stabilization or flood hazard protection. New development that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties is prohibited.
- C. New development, including single-family residences, that includes structural shoreline stabilization shall not be allowed unless all of the conditions below apply:
- a) The need to protect the development from destruction due to erosion caused by natural processes, such currents, is demonstrated through a geotechnical report.
  - b) The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
  - c) Non-structural measures, such as placing the development further from the shoreline, planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient, as demonstrated through a geotechnical or engineering report.
  - d) The structure will not reduce shoreline functions, given appropriate mitigation.
- D. New shoreline stabilization measures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the following conditions apply:
1. Nonstructural measures, planting vegetation or installing on-site drainage improvements are not feasible or not sufficient; and
  2. The erosion control structure will not result in a net loss of shoreline ecological functions.
- E. New development on steep slopes or bluffs shall be set back, as required in the City's Critical Area Ordinance, sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis by a licensed geotechnical engineer or related licensed professional.
- F. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents. At the discretion of the City Engineer, the demonstration of need does not necessarily require a geotechnical report by a licensed geotechnical engineer or related licensed professional. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions.

- G. Replacement walls shall not encroach waterward of the OHWM and shall be designed to allow for establishment of vegetation, and/or habitat elements.
- H. Before completion of a stabilization project, all outdated existing structures will be removed, unless the existing structure provides irreplaceable habitat for critical species, or if ecological impacts to critical aquatic habitats would occur (such as increased erosion or other impacts beyond temporary impacts) as a result of its removal. If the existing structure provides habitat that is limited in the landscape, that habitat will be replaced via a habitat mitigation project. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.
- I. Where structural shoreline stabilization measures are demonstrated to be necessary, as in the above provisions, the size of stabilization measures shall be limited to the minimum necessary. The City may require that the proposed structure be altered in size or design. Impacts to sediment transport shall be avoided or minimized.
- J. The City will require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in 5.2.1.3 (D) of the General Provisions. The City may require the inclusion of vegetation conservation, as described in Section 4.B.11, as part of shoreline stabilization, where feasible.
- K. Shoreline modification activities, with the exception of shoreline restoration or enhancement efforts, are prohibited in wetlands and in salmon and trout spawning waters. Shoreline stabilization and shoreline protection shall be located landward of the floodway and all associated wetlands.
- L. Shoreline stabilization measures along the shoreline that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline vegetation may be allowed.
- M. Repair of existing shoreline stabilization measures is allowed. Replacement of existing shoreline stabilization measures, as defined in the Applicability statement above, is allowed if it conforms to Regulations C and E above and the City determines that replacement is necessary to prevent damage to residences, appurtenant structures, or the shoreline ecology from shoreline erosion; and impacts to the natural environment are minimized.
- N. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative or if the City determines that it would significantly improve shoreline ecological functions.
- O. Gabions (wire mesh filled with concrete or rocks) are prohibited within the shoreline jurisdiction unless authorized by a pertinent agency as an emergency measure.
- P. Stairs and boat ramps are not permitted.
- Q. Wood is the preferred material for shoreline stabilization. Rock should only be used when the applicant can provide a compelling ecological or logistical reason for its use. Toxic wood treatments are prohibited. If there is an ecologically compelling reason to use rock, it should consist of large stones, with vegetation planted in the gaps. Stones should not be stacked in a wall greater than 2 horizontal to 1 vertical slope.
- R. The following materials are not acceptable for shoreline stabilization structures:

1. Degradable plastics and other non-permanent synthetic materials.
  2. Sheet materials, including metal, plywood, fiberglass, or plastic.
  3. Broken concrete, asphalt, or rubble.
  4. Car bodies, tires or discarded equipment.
- S. Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to pre-project conditions to the greatest extent possible. Plantings shall consist of native grasses, shrubs, and/or trees in keeping with pre-existing bank vegetation. If the area did not contain native vegetation, native plantings will still be installed.
- T. Placement of fill behind shoreline stabilization is not allowed and shall be considered landfill and shall be subject to the provisions for landfill and the requirement for obtaining a shoreline substantial development permit.
- U. The City may require and use the following information, in addition to the standard permit information required by WAC 173-27, in its review of all bioengineering projects:
1. Proposed construction timing.
  2. Hydrologic analysis, including predicted flood flows.
  3. Site vegetation, soil types, and slope stability analysis.
  4. Proposed project materials, including rock size, shape, and quantity; plant types; and soil preparations.
  5. Existing and proposed slope profiles, including location of OHWM.
  6. Proposed designs for transition areas between the project site and adjacent properties.
  7. Documentation (including photographs) of existing (preconstruction) shoreline characteristics.
- V. Bioengineering projects shall use native trees, shrubs, and/or grasses, unless such an approach is unfeasible.
- W. All bioengineering projects shall include a program for monitoring and maintenance.

### **5.3.5 PIERS AND DOCKS**

#### **5.3.5.1 Applicability**

- A. Piers and docks are structures that abut the shoreline and are used as a landing or moorage place for water craft. Piers are built on fixed platforms above the water, while docks float upon the water. Mooring floats, buoys and other mooring facilities are also covered in this section.

### **5.3.5.2 Policies**

- A. No new pier and dock construction, mooring floats or facilities should be allowed, as they are not necessary in within the shoreline jurisdiction for the City and its UGA.

### **5.3.5.3 Regulations**

- A. New pier and dock construction will not be allowed.
- B. New mooring floats, buoys or other facilities will not be allowed.

## **5.3.6 FILL**

### **5.3.6.1 Applicability**

- A. Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structures, 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. Fill is not permitted within the 100-year floodplain without providing compensatory flood storage to prevent a rise in the base flood, which is a flood having a 1 percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood.” Fill can impact ecological processes and functions, including channel migration.

### **5.3.6.2 Policies**

- A. Fills waterward of OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses, cleanup and disposal of contaminated sediments as part of an approved restoration project, or for other water-dependent uses that are consistent with this master program.
- B. Fill should be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, or floodwaters, which would result in a hazard to adjacent life, property, and ecological processes.

### **5.3.6.3 Regulations**

- A. Applications for fill permits shall include the following:
  1. Proposed use of the fill area;
  2. Physical, chemical and biological characteristics of the fill material;
  3. Source of fill material;
  4. Method of placement and compaction;
  5. Location of fill relative to natural and/or existing drainage patterns and wetlands;
  6. Location of the fill perimeter relative to the OHWM;

7. Perimeter erosion control or stabilization means; and
  8. Type of surfacing and runoff control devices.
- B. Fill waterward of the OHWM may be permitted only when:
1. In conjunction with a bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;
  2. Following an environmental cleanup action involving excavation/fill, as authorized by the City; or
  3. As part of an approved shoreline restoration project.
- C. Waterward of the OHWM, pile or pier supports shall be used whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven unfeasible.
- D. Fills are prohibited in floodplains except where it can be clearly demonstrated that the hydrologic characteristics and flood storage capacity will not be altered to increase flood hazard or other damage to life or property. Fills are prohibited in floodways, except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use, specified in Regulation B, above.
- E. Fill shall be permitted only where it is demonstrated that the proposed action will not:
1. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or
  2. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows, or significantly reduce floodwater capacities.
- F. Sanitary fills shall not be located in shoreline jurisdiction.

### **5.3.7 FOREST PRACTICES**

#### **5.3.7.1 Applicability**

- A. Forest practices are those methods used for the protection, production and harvesting of timber.

#### **5.3.7.2 Policies**

- A. The City should rely on the Forest Practices Act and rules implementing the act and the *Forest and Fish Report* as adequate management of commercial forest uses within shoreline jurisdiction.
- B. Assure no net loss of shoreline ecological functions by prohibiting forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses.

### **5.3.7.3 Regulations**

- A. Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses, are not allowed

## **5.3.8 BREAKWATERS, JETTIES, AND GROINS**

### **5.3.8.1 Applicability**

- A. Breakwaters are protective structures built off shore to protect harbor areas, moorage, navigation, beaches and bluffs from wave action. Breakwaters may be fixed (for example, rubble mound or rigid wall), open-pile, or floating.
- B. Rock weirs and groins are structures built seaward perpendicular to the shore for the purpose of building or preserving an accretion beach by trapping littoral sand drift. Generally narrow and of varying lengths, groins may be built in a series along the shore.
- C. Rock groins are also used to protect buried pipes of cables from erosion or other damage, anchor dragging, etc.

### **5.3.8.2 Policies**

- A. Breakwaters, rock weirs, and groins should not be allowed, as they are not necessary in within the shoreline jurisdiction for the City and its UGA.

### **5.3.8.3 Regulations**

- A. Breakwaters, rock weirs, and groins are not allowed.

## **5.3.9 DREDGING AND DISPOSAL**

### **5.3.9.1 Applicability**

- A. Dredging is the removal or displacement of earth or sediment (gravel, sand, mud, silt, and/or other material or debris) from a stream, water body, ditch, or associated wetland or floodplain.
- B. Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging.

### **5.3.9.2 Policies**

- A. Dredging and dredge material disposal should not be allowed within Critical Areas (per the EMC) located within the shoreline jurisdiction, unless associated with an approved restoration or environmental cleanup project.
- B. Dredging in shorelands that are not located within Critical Areas (per the EMC) should be limited to the minimum amount necessary.

- C. Dredging operations should be planned and conducted to minimize adverse impacts to other shoreline uses, properties, and values.

### **5.3.9.3 Regulations**

- A. Dredging and dredge material disposal is not allowed within Critical Areas (per the EMC) located within the shoreline jurisdiction, unless associated with:
  - 1. An approved restoration project,
  - 2. An environmental cleanup project,
  - 3. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist, or
  - 4. An approved comprehensive flood management plan meeting the requirements of Section 5.2.3 Flood Hazard Reduction and River Corridor Management.
- B. Dredging operations should be planned and conducted to minimize adverse impacts to other shoreline uses, properties, and values.
- C. Permit applications for dredging and dredge material disposal may be required to provide the following information:
  - 1. Demonstrated need for the project
  - 2. Proper mitigation sequencing per Section 5.2.1.3 (D), including avoidance, minimization, and mitigation.
  - 3. Physical, chemical and biological assessment of the proposed dredged material applicable to the particular dredging site.
  - 4. Specific data to be considered include:
    - a. Physical: Grain size, clay, silt, sand or gravel as determined by sieve analysis.
    - b. Chemical: Including conventional parameters, metals, and organics.
    - c. Biological: Bioassays useful in determining the suitability of dredged material for a selected disposal option.
  - 5. Dredging volumes, methods, schedule, frequency, hours of operation and procedures;
  - 6. Method of disposal, including the location, size, capacity and physical characteristics of the disposal site, transportation method and routes, hours of operation, schedule;
  - 7. Stability of soils adjacent to proposed dredging area; and
  - 8. Assessment of water quality impacts.

- D. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  - 1. Result in significant and/or ongoing damage to water quality, fish, or other essential elements;
  - 2. Adversely alter natural drainage and circulation patterns, currents, or river flows or significantly reduce floodwater capacities; or
  - 3. Cause other significant ecological impacts.
- E. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.
- F. Dredging and dredge disposal shall be carefully scheduled to protect biological productivity (e.g., fish runs, spawning, benthic productivity, etc.) and to minimize interference with fishing activities.
- G. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the Washington Heritage Register or the National Register of Historic Places until such time that they have been released by the State Archaeologist.
- H. New development shall be located and designed to avoid or minimize the need for new or maintenance dredging where feasible.
- I. Except for sites approved through the Puget Sound Dredged Disposal Analysis (PSDDA) Management Plan, depositing clean dredge materials in critical areas (per the EMC) shall be allowed only by conditional use permit for one or more of the following reasons:
  - 1. For capping environmental cleanup sites, or
  - 2. To correct problems of material distribution adversely affecting shoreline functions, as part of a habitat restoration project.
- J. Proposals for disposal in non-critical areas (per the EMC) within the shoreline jurisdiction, must show that the site will ultimately be suitable for a use permitted by this master program.
- K. Revegetation of land disposal sites shall occur as soon as possible in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Native species and other compatible plants shall be used. Refer to Appendix B.
- L. The City may impose reasonable limitations on dredge disposal operating periods and hours and may require provision for buffers at land disposal or transfer sites in order to protect the public safety and other shore users' lawful interests from unnecessary adverse impacts.

## **5.3.10 MINING**

### **5.3.10.1 Applicability**

- A. Mining is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits. Mining in the shoreline generally alters the natural character, resources, and ecology of shorelines of the state and may impact critical shoreline resources and ecological functions of the shoreline. Activities associated with shoreline mining, such as processing and transportation, also generally have the potential to impact shoreline resources unless the impacts of those associated activities are evaluated and properly managed

### **5.3.10.2 Policy**

- A. Mining is not an allowed shoreline use or activity.

### **5.3.10.3 Regulations**

- A. Mining is not an allowed shoreline use or activity.

## **5.3.11 BOATING FACILITIES**

### **5.3.11.1 Applicability**

- A. Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage; boat launch ramps; covered moorage; boat houses; mooring buoys; and marine travel lifts. See also “Piers and Docks” in Section 5, “Project-Specific Provisions,” for non-marina-associated boating facility provisions.
- B. There are uses and activities associated with boating facilities but that are identified in this section as separate uses (e.g., Commercial Development and Industrial Development, including ship and boat building, repair yards, utilities, and transportation facilities) or as separate shoreline modifications (e.g., piers, docks, bulkheads, breakwaters, jetties and groins, dredging, and fill). These uses are subject to the regulations established for those uses and modifications in addition to the standards for boating facilities established in this section.

### **5.3.11.2 Policies**

- A. Boating facilities, marinas, launch ramps, and related facilities should not be located in the shoreline jurisdiction as there are no navigable waters present within the City or its UGA.

### **5.3.11.3 Regulations**

- A. Boating facilities, marinas, launch ramps, and related facilities shall not be located in the shoreline jurisdiction as there are no navigable waters present within the City or its UGA.

## **5.3.12 SHORELINE RESTORATION AND ECOLOGICAL ENHANCEMENT**

### **5.3.12.1 Applicability**

- A. Shoreline restoration and/or enhancement is the improvement of the natural characteristics of upland, tidal, or submerged shoreline using native materials. The materials used are dependent on the intended use of the restored or enhanced shoreline area.
- B. An Ecological Restoration Plan accompanies this SMP (Appendix B) that recommends ecological enhancement and restoration measures.

### **5.3.12.2 Policies**

- A. The City should consider shoreline enhancement and/or restoration as an alternative to structural shoreline stabilization and protection measures where feasible.
- B. All shoreline restoration and/or enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
- C. Where possible, shoreline restoration and/or enhancement should use maintenance-free or low-maintenance designs.
- D. The City will pursue the recommendations in the shoreline restoration plan prepared as part of this SMP update. The City will give priority to projects consistent with this plan.
- E. Shoreline restoration and/or enhancement should not extend waterward more than necessary to achieve the intended results.

### **5.3.12.3 Regulations**

- A. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to sediment transport or river current will result that will adversely affect ecological processes, properties, or habitat.
- B. Shoreline restoration and/or enhancement projects shall use best available science and management practices.
- C. Shoreline restoration and/or enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
- D. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:
  - 1. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and
  - 2. It is consistent with the implementation of a comprehensive restoration plan approved by the City, or the City finds that the project provides an ecological benefit and is consistent with this master program.

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

### **5.3.13 UTILITIES**

#### **5.3.13.1 Applicability**

- A. Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities. See Section 5.3.12, “Utilities,” for onsite accessory use utilities.
- B. Solid waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste on any land area or in the water.
- C. Solid waste includes all putrescible and non-putrescible solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material or agricultural or other commercial logging wastes not specifically listed above.

#### **5.3.13.2 Policies**

- A. New utility facilities should not be located inside of the shoreline jurisdiction unless there is a demonstrated water-oriented purpose.
- B. New facilities should be designed so as not to require extensive shoreline protection impacts or works.
- C. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.
- D. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

#### **5.3.13.3 Regulations**

- A. New utility production facilities, with the exception of associated transmission lines, shall not be allowed within the of the shoreline jurisdiction unless there is a demonstrated water-oriented purpose.
- B. In order of preference, allowed utility and utility transmission lines shall:
  - 1. Be located entirely outside of the in shoreline jurisdiction.
  - 2. Be located outside of critical areas (per the EMC) within the shoreline jurisdiction.

3. Be located so as to cause minimum harm to the shoreline.
  4. Be located in existing rights-of-way and utility corridors.
  5. Be coordinated with other government agencies in order to provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.
  6. Minimize impacts to public access and views.
- C. Applications for new or expanded utility facilities development in the shoreline jurisdiction shall include the following:
1. Demonstration of the need for the facility.
  2. An analysis of alternative alignments or routes, including where feasible, alignments or routes outside shoreline jurisdiction.
  3. An analysis of potential impacts complying with the State Environmental Policy Act (SEPA), including an analysis of comparative impacts of feasible alternative routes. (See the definition of “feasible” in Section 7.)
  4. Description of construction, including location, construction type, and materials.
  5. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project.
  6. Plans for reclamation of areas disturbed during construction.
  7. Plans for control of erosion and turbidity during construction and operation.
  8. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.
- D. If allowed, small power-generating facilities for maintenance of a transmission system shall require a conditional use permit.
- E. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
- F. The City may require the relocation or redesign of proposed utility development in order to avoid significant adverse ecological impacts.
- G. Restoration of ecological functions shall be a condition of new and expanded non-water-dependent utility facilities.
- H. New electricity, communications, and fuel lines shall be located underground and shall be co-located, except where the presence of bedrock or other obstructions make such placement

infeasible or if it is demonstrated that aboveground lines would have a lesser impacts, or if another solution is considered safer.

- I. At the discretion of the City, existing aboveground lines shall be moved underground during normal replacement processes, unless such activity will impact a critical area.
- J. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shore defense or flood protection works.
- K. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.
- L. Filling in critical areas (per the EMC) within the shoreline jurisdiction for utility facility or line development purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize impacts more completely than other methods.
- M. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition, or, if the pre-project condition is of poor quality (consisted on bare soil, non-native grasses, or invasive species) it will be enhanced with native vegetation. Refer to Appendix B for example specifications for these activities.

#### **5.3.14 UTILITIES (ACCESSORY)**

##### **5.3.14.1 Applicability**

Accessory utilities are those that effect small-scale distribution services connected directly to the uses along the shoreline. They are addressed in this section because they concern all types of development and have the potential to impact the quality of the shoreline and its waters.

##### **5.3.14.2 Policies**

- A. Accessory utilities should be properly installed so as to protect the shoreline and water from contamination and degradation.
- B. Accessory utility facilities and rights-of-way should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.
- C. Accessory utility facilities should be designed and located in a manner that preserves the natural landscape and shoreline ecological processes and functions and minimizes conflicts with present and planned land uses.

### **5.3.14.3 Regulations**

- A. In shoreline areas, accessory utility transmission lines, pipelines, and cables shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.
- B. Accessory utility development shall, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.
- C. Sites disturbed for utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion and, where feasible, restored to pre-project configuration and replanted with native vegetation.
- D. Utility discharges and outfalls should be located, designed, constructed, and operated in accordance with best management practices to ensure degradation to water quality is kept to a minimum.
- E. Restoration of native vegetation is required following construction or installation of utilities, no matter how small the area of disturbance is. Refer to Appendix B, Shoreline Restoration.

### **5.3.15 PARKING**

#### **5.3.15.1 Applicability**

- A. Parking is the temporary storage of automobiles or other motorized vehicles. Except as noted, the following provisions apply only to parking that is “accessory” to a permitted shoreline use.
- B. Parking as a “primary” use, and parking that serves a use not permitted in the shoreline jurisdiction, is prohibited.

#### **5.3.15.2 Policies**

- A. Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use (e.g., serving recreational use on weekends, commercial uses on weekdays).
- B. Where feasible, parking for shoreline uses should be provided in areas outside shoreline jurisdiction.
- C. Low-impact parking facilities, such as permeable pavements, may, if appropriate, be used within the shoreline jurisdiction.

#### **5.3.15.3 Regulations**

- A. Parking as a primary use or that serves a use not permitted in the applicable shoreline environment designation shall be prohibited over water and within shoreline jurisdiction.

- B. Parking in shoreline jurisdiction must be accessory to a permitted shoreline use.
- C. Parking facilities shall be designed and landscaped to minimize adverse impacts upon the adjacent shoreline and abutting properties. Landscaping shall consist of native vegetation and/or plant materials approved by the City and shall be planted and verified by City staff before the parking area can be used. Plants must be installed in such a manner to provide effective screening within three years of project completion.
- D. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, EXCEPT when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.
- E. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines (including access to trail systems, if present on or adjacent to the property where the parking is being constructed).
- F. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating water bodies, using best available technologies and include a maintenance program that will assure proper functioning of such facilities over time.

### **5.3.16 TRANSPORTATION**

#### **5.3.16.1 Applicability**

- A. Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, airports, heliports, and other related facilities.
- B. Uses and facilities associated with transportation, which are identified as separate use activities or shoreline modifications in this program, such as Shoreline Stabilization and Flood Protection, Utilities, Bridges, Landfill, and Clearing and Grading, are subject to the regulations established for those modifications in addition to any special conditions relating to residential areas established in this section.

#### **5.3.16.2 Policies**

- A. Transportation that is not meant specifically to provide circulation to and from shoreline jurisdiction areas should not be located in the jurisdiction.
- B. Circulation systems within shoreline jurisdiction should include systems for pedestrian, bicycle, and public transportation where appropriate.
- C. Cooperative planning among local, county, and state agencies should be undertaken to allow for connectivity among shoreline jurisdictions, other shoreline areas (within the unincorporated county), and downtown.
- D. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

- E. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline.
- F. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner that does not reduce or substantially impact shoreline resources or ecological functions.
- G. When existing transportation corridors are abandoned, they should be reused for water-oriented used or public access.
- H. Abandoned or unused road or railroad rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

### **5.3.16.3 Regulations**

- A. New transportation facilities shall be located outside shoreline jurisdiction, if possible. In determining the feasibility of a non-shoreline location, the City will apply the definition of “feasible” in Section 7 and weigh the action’s relative public costs and benefits, considered in the short- and long-term time frames.
- B. Applications for new or expanded transportation facilities development in shoreline jurisdiction shall include the following information:
  - 1. Demonstration of the need for the facility.
  - 2. An analysis of alternative alignments or routes, including where feasible, alignments or routes outside shoreline jurisdiction.
  - 3. An analysis of potential impacts complying with the SEPA, including an analysis of comparative impacts of feasible alternative routes.
  - 4. Description of construction, including location, construction type, and materials.
  - 5. Description of restoration measures.
- C. All new and expanded transportation facilities development shall be conditioned with the requirement to mitigate significant adverse impacts consistent with 5.2.1.3 (D) of this master program.
- D. New or expanded transportation facilities development that cause significant ecological impacts shall not be allowed unless the development includes shoreline mitigation/restoration that increases the ecological functions being impacted to the point where:
  - 1. Significant short- and long-term risks to the shoreline ecology from the development are eliminated.
  - 2. Long-term opportunities to increase the natural ecological functions and processes are improved.
- E. If physically feasible, the mitigation/restoration shall be in place and functioning prior to project impacts. The mitigation/restoration shall include a monitoring and adaptive management program.

- F. All roads and railroads, if permitted parallel to shoreline areas, shall be adequately set back from critical areas (per the EMC) and shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.
- G. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, or substantial site clearing and grading.
- H. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile, or pier structures whenever feasible.
- I. All new and expanded transportation facilities development in shoreline jurisdiction shall be consistent with the City's Comprehensive Plan and applicable capital improvement plans.
- J. Transportation facilities and services shall use existing transportation corridors whenever possible: Expansions, additions or modifications shall be designed and/or conditioned to eliminate or minimize adverse impacts consistent with 5.2.1.3 (D).
- K. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies if practicable, where adverse impact to the shoreline can be minimized by doing so.
- L. New and expanded transportation facilities development shall not diminish but may modify public access to the shoreline, as described in 5.2.1.3 (D).
- M. Waterway crossing shall be designed to provide minimal disturbance to banks.
- N. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts.
- O. Culverts shall be located so as to avoid relocation of the stream channel.
- P. Bridges, crossings, debris grates, culverts, and similar devices used by fish shall meet all requirements set by the Washington State Department of Fish and Wildlife (WDFW). This includes the WDFW Water Crossing Design Guidelines (Barnard et al. 2013).
- Q. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas.
- R. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, or sidecast materials without appropriate best management practices.
- S. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands.
- T. All shoreline areas disturbed by transportation facility construction and maintenance shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established by the agency or developer constructing or maintaining the road. Refer to Appendix B, Shoreline Restoration Plan.

U. The vegetation restoration/replanting plans shall be as approved by the City.

## **5.4 PROVISIONS BY LAND USE AND DEVELOPMENT TYPE**

### **5.4.1 GENERAL**

- A. The City will give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
- B. The City will ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and will endeavor to protect property rights while implementing the policies of the SMA.
- C. The City will reduce use conflicts by prohibiting or applying special conditions to those uses that are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference will be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

### **5.4.2 AGRICULTURE**

#### **5.4.2.1 Applicability**

- A. Agriculture includes, but is not limited to, the production of horticultural, vinicultural, floricultural, livestock, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; normal crop rotation and crop change; and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation.
- B. Excluded are agricultural processing industries.
- C. Uses and shoreline modifications associated with agriculture that are identified as separate use activities in this program, such as industry, shoreline stabilization, and flood hazard management, are subject to the regulations established for those uses in addition to the standards established in this section.

#### **5.4.2.2 Policies**

- A. The creation of new agricultural lands by diking, draining, or filling of wetlands, channel migration zones, should be prohibited.
- B. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce bank erosion and resulting sedimentation, enhance water quality, reduce flood hazard, and maintain habitat for fish and wildlife.
- C. Animal feeding operations, retention and storage ponds, and feedlot waste and manure storage should be located out of the shoreline jurisdiction and constructed to prevent contamination of water bodies and degradation of the adjacent shoreline environment.

- D. Appropriate farm management techniques should be used to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application.
- E. Where ecological functions have been degraded, new development should be conditioned with the requirement for ecological restoration.

### **5.4.2.3 Regulations**

- A. Agricultural uses are allowed in the Urban Conservancy environment as a permitted use.
- B. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and this master program.
- C. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within shoreline jurisdiction.
- D. New agricultural activities and land uses or expansion of existing agricultural activities and uses outside of area(s) that existed as of the date of adoption of this master program shall comply with all provisions of the SMA and this shoreline master program.
- E. On land used for agriculture as of the date of this master program, streams and wetlands within the shoreline jurisdiction shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
  - 1. Suitable bridges, culverts, or ramps for stock crossing.
  - 2. Ample supplies of clean fresh water in tanks on dry land for stock watering.
  - 3. Fencing or other grazing controls to prevent bank compaction, bank erosion, or the overgrazing of or damage to buffer vegetation.
- F. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
- G. The application of agricultural chemicals shall prevent the direct runoff of chemical-laden waters into streams, surface water conveyances (ditches), natural wetlands (excluding created treatment wetlands), or aquifer recharge areas.

## **5.4.3 COMMERCIAL**

### **5.4.3.1 Applicability**

- A. Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities.

### **5.4.3.2 Policies**

- A. New commercial projects that are not at least partially water-oriented should not be located in the shoreline jurisdiction.

### **5.4.3.3 Regulations**

- A. New commercial projects that are not at least partially water-oriented shall not be located in the shoreline jurisdiction.
- B. The City shall require and use the following information in its review of commercial development proposals:
  - 1. Nature of the commercial activity (e.g., water-related, water-enjoyment, non-water-oriented, mixed-use), including a breakdown of specific shoreline use components.
  - 2. The reason(s) why the project needs a shoreline location.
  - 3. Design measures to take advantage of the shoreline location.
  - 4. Provisions for ecological restoration and for public visual and physical access to the shoreline.
  - 5. Provisions to ensure that the development will not cause significant ecological impacts or adverse environmental impacts.
  - 6. Layout, size, height, and general appearance of all proposed structures.
  - 7. Pedestrian and vehicular circulation, public access features, pavements, landscaping, and view corridors.
  - 8. For mixed-use proposals, the mix of water-oriented and non-water-oriented uses and activities, structure locations, site designs and bulk considerations, enhancements for physical and visual public access to the shoreline (both public and private space), and other design measures that address the goals and policies of the master program.
- C. Water-oriented commercial developments may be permitted as indicated in Section 4, Tables 1A and 1B, the Shoreline Land Use and Modification Matrices, and in accordance with other provisions of this master program.
- D. Non-water-dependant commercial developments are not allowed to be located over water (within the Aquatic Environment) as indicated in Section 4, Table 1A.
- E. Non-water-oriented commercial developments may be permitted as indicated in Section 4, Tables 1A and 1B, and in accordance with other provisions of this master program only where all three of the following can be demonstrated:
  - 1. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, incompatible surrounding land uses, physical features, or the site's separation from the water.

2. The proposed development does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
3. The proposed development will be of appreciable public benefit by increasing ecological functions together with public use of or access to the shoreline.

#### **5.4.4 INDUSTRIAL**

##### **5.4.4.1 Applicability**

- A. Industrial developments and uses are facilities for processing, manufacturing, and storing of finished or semi finished goods. Shoreline modifications and other uses associated with industrial development are described separately in this master program.

##### **5.4.4.2 Policies**

- A. No new industrial development should be allowed within the shoreline jurisdiction. The City's shorelines do not support navigation and are not conducive to industrial water-dependent or water-oriented uses.

##### **5.4.4.3 Regulations**

- A. No new industrial development shall be allowed within the shoreline jurisdiction.

#### **5.4.5 RECREATIONAL**

##### **5.4.5.1 Applicability**

- A. Recreational development includes public and commercial facilities for passive recreational activities such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses, such as parks, campgrounds, golf courses, and other outdoor recreation areas. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association, or individual.
- B. Recreational uses and development can be part of a larger mixed-use project. For example, a resort will probably contain characteristics of, and be reviewed under, both the "Commercial Development" and the "Recreational Development" sections. Primary activities such as boating facilities, subdivisions, and motels are not addressed directly in this category.
- C. Uses and activities associated with recreational developments that are identified as separate land use activities in this program are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

##### **5.4.5.2 Policies**

- A. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.

- B. State-owned shorelines, being particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses, should be given special consideration for park and recreational uses.
- C. Recreational developments and plans should promote preservation of the natural character, resources and ecological functions and processes of the shoreline jurisdiction.
- D. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
- E. Water-dependent recreational uses, such as angling and swimming, should have priority over water-enjoyment uses, such as picnicking and golf. Water-enjoyment uses should have priority over non-water-oriented recreational uses, such as baseball or soccer.
- F. The linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives, should be encouraged. Recreational facilities should be integrated with public access systems.
- G. Where appropriate, non-intensive recreational uses may be permitted in floodplain areas. Non-intensive recreational uses include those that do not do any of the following:
  - 1. Adversely affect the natural hydrology of the river,
  - 2. Add pollutants, such as fertilizers, or strong lights, that harm water quality or wildlife,
  - 3. Create flood hazards,, and
  - 4. Damage the shoreline environment through modifications such as structural shoreline stabilization or vegetation removal.

### **5.4.5.3 Regulations**

- A. Water-oriented recreational developments may be permitted as indicated in Section 4, Tables 1A and 1B, Shoreline Land Use and Modification Matrices. In accordance with said matrix and other provisions of this master program, non-water-oriented recreational developments may be permitted only where it can be demonstrated that:
  - 1. The proposed use shall not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
  - 2. The proposed use will be of appreciable public benefit by increasing ecological functions together with public use, enjoyment, or access to the shoreline.
  - 3. Accessory parking shall not be located in shoreline jurisdiction unless the City determines there is no other feasible option.
  - 4. All new parking that must be located with the shoreline jurisdiction shall implement low impact development technologies.
  - 5. New impervious surfaces will not be allowed within critical areas (per the EMC) or their buffers.

- B. All new recreational development proposals will be reviewed by the City for ecological restoration and public access opportunities. When restoration and/or public access plans indicate opportunities exist, the City may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.
- C. All new non-water-oriented recreational development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.
- D. The City shall consult the Environmental Restoration Plan to determine the applicability and extent of ecological restoration and/or public access required for all recreational development plans.
- E. Substantial structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall not be located within critical areas (per the EMC), unless it can be clearly shown that such facilities are essentially water-dependent or there is no feasible alternative. These areas may be linked to the shoreline by pervious walkways.
- F. For recreation developments that require the use of fertilizers, pesticides, or other toxic chemicals, such as golf courses and play fields, the applicant shall submit plans demonstrating the methods to be used to prevent these applications and resultant leachate from entering adjacent water bodies and must demonstrate that alternative lower impact options are not practicable.
- G. Buffer strips and, if practical, shade trees shall be included in the development.
- H. The City shall determine the maximum width necessary for buffer strips.
- I. The proponent shall also be required to leave a chemical-free swath at least 100 ft in width next to water bodies and wetlands.
- J. Snags and living trees shall not be removed within critical areas (per the EMC) unless a professional forester or horticulturalist determines them to be extreme hazards and likely to fall into a park use area. Snags and living trees within the setback that do not present an extreme hazard shall be retained.

## **5.4.6 RESIDENTIAL**

### **5.4.6.1 Applicability**

- A. Residential development means one or more buildings, structures, lots, parcels or portions thereof that are designed for and used or intended to be used to provide a place of abode for human beings, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, apartments, townhouses, mobile home parks, other similar group housing, condominiums, subdivisions and short subdivisions, together with normal appurtenances as defined in Section 7.0 (Definitions). Residential development does not include hotels, motels or any other type of overnight or transient housing, recreational vehicle parks, or camping facilities.

- B. The SMA identifies single-family residences as a priority use when (and only when) developed in a manner consistent with the control of pollution and prevention of damage to the natural environment.
- C. Although some owner-occupied single-family residences are exempt from the substantial development permit process, they still must comply with all of the provisions of this section and of the master program.
- D. Subdivisions and short subdivisions must also comply with all of the provisions of this section and the master program.
- E. All development is subject to the variance and conditional use requirements and permit processes, when indicated.
- F. Uses and facilities associated with residential development, which are identified as separate use activities or shoreline modifications in this program, such as Boating Facilities, Piers, Shoreline Stabilization and Flood Protection, Utilities, Landfill and Clearing and Grading, are subject to the regulations established for those modifications in addition to any special conditions relating to residential areas established in this section.

#### **5.4.6.2 Policies**

- A. Recognizing the single-purpose, irreversible, and space-consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space between structures to provide space for outdoor recreation, to protect and restore ecological functions and ecosystem-wide processes, to preserve views, and to minimize use conflicts.
- B. New residential development should be designed so as to not cause significant ecological impacts or significant adverse impacts to shoreline esthetic characteristics, views, and improve public use of the shoreline and the water.
- C. New residential development should be located and designed so as to minimize conflicts or incompatibilities with water-oriented uses.

#### **5.4.6.3 Regulations**

- A. In accordance with the SMA, Chapter 90.58 RCW, the following categories of development on single-family residential properties do not require a shoreline substantial development permit.
  - 1. Construction in shoreline jurisdiction by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his family that does not exceed a height of 30 ft above the average building elevation and meets all of the requirements of this master program and other applicable local, state, and federal laws.
  - 2. “Appurtenances” to single-family residences located landward of the OHWM and the perimeter of a wetland, including such structures as garages, decks, driveways, utilities, fences, installation of a septic tank and drainfield, and grading that does not exceed 250

cubic yards and that does not involve placement of fill in any wetland or waterward of the OHWM.

3. The construction of bioengineered shoreline stabilization, or restoration project including vegetation enhancement, enhancement, upland drainage control.
- B. HOWEVER, all of the development described above shall meet the provisions of this master program. In order to implement the objectives of the Shoreline Management Act (SMA), RCW 90.58.020, the City shall review development proposals for such actions.
  - C. Persons intending to carry out the types of single-family development described above shall apply for a “letter of exemption.”
  - D. Residential development, including appurtenances and accessory uses, shall be prohibited within floodways, channel migration zones, wetlands, critical wildlife habitats, and other hazardous areas, such as steep slopes and areas with unstable soils or geologic conditions (per the EMC).
  - E. Appurtenances, as defined in this master program consistent with Chapter 173-27 WAC (or in Section 7, Definitions), shall be subject to the same conditions as primary residences, except that for the protection of human health and safety and ecological functions further restrictions may apply. Appurtenant structure types not outright listed in the definition may otherwise be determined by the director.
  - F. Accessory uses that are not appurtenant structures shall be reasonable in size and purpose and compatible with onsite and adjacent structures, uses, and natural features.
  - G. Accessory structures that are not water-dependent are prohibited waterward of the principal residence.
  - H. Residential setbacks and density shall be consistent with the requirements of the R-1 zoning district (EMC 18.06) or R-2 zoning district (EMC 18.08), as applicable. Reference Figure 2. The City’s Comprehensive Plan allows 4-7 dwelling units per acre within these zones.
  - I. Setbacks from the Ordinary High Water Mark for structures shall be as required by the Section 5.2.1, Critical Areas.
  - J. The creation of new lots shall be prohibited unless all of the following can be demonstrated.
    1. A primary residence can be built on each new lot without any of the following being necessary:
      - a. New structural shoreline stabilization.
      - b. New development or clearing and grading within critical areas (per the EMC).
      - c. Causing significant erosion or reduction in slope stability.
      - d. Causing increased flood hazard or erosion in the new development or to other properties.

2. Adequate sewer, water, access, and utilities can be provided.
  3. The intensity and type of development is consistent with the City Comprehensive Plan and development regulations (EMC Titles 18 and 19). Specifically:
    - Residential setbacks and density shall be consistent with the requirements of the R-1 zoning district (EMC 18.06) or R-2 zoning district (EMC 18.08), as applicable. Reference Figure 2. The City's Comprehensive Plan allows 4-7 dwelling units per acre within these zones.
    - Setbacks from the Ordinary High Water Mark for structures shall be as required by the Section 5.2.1, Critical Areas.
  4. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions, taking into consideration temporal loss due to development and potential adverse impacts to the environment.
  5. The project uses low impact development technologies.
- K. Over-water residences and floating homes are prohibited.
- Multi-unit development, including the subdivision of land into more than four parcels, shall be required to provide public access according to 5.2.1.3 (D), Public Access.
- L. The City will determine whether or not a proposed development meets the above conditions.

## 6.0 ADMINISTRATIVE PROVISIONS

### 6.1 SHORELINE PERMIT REVIEW PROVISIONS

The following shoreline administrative provisions will be codified as EMC Chapter 15.36 as follows:

#### 15.36.010 PURPOSE

The purpose of this chapter is to establish an administrative system designed to assign responsibilities for implementation of the Shoreline Master Program and shoreline permit review within the City of Enumclaw, to provide an orderly process by which to review proposals and permit applications, and to ensure all persons affected by the Shoreline Master Program are treated in a fair and equitable manner. All permits must be consistent with:

- The legislative policies stated in the SMA, RCW 90.58.020 (SMA).
- The Shoreline Master Program of the City of Enumclaw

#### 15.36.020 SHORELINE MASTER PROGRAM ADOPTED

The City of Enumclaw Shoreline Master Program adopted by Ordinance No. \_\_\_\_\_ is herein incorporated by reference as set forth in full.

#### 15.36.030 PERMITS REQUIRED

Any person wishing to undertake development within shoreline jurisdiction shall apply for a Substantial Development Permit, a Shoreline Conditional Use Permit, a Shoreline Variance permit, or a Statement of Exemption. Based on the City's Comprehensive Plan and Shoreline Master Program, the Administrator shall determine which permit is required or if the proposal is exempt from a shoreline permit.

**A. Substantial Development Permit.** Any development of which the total cost or fair market value exceeds that cited in RCW 90.58.030(3)(e), or any development, which materially interferes with the normal public use of the water or shorelines of the state. No substantial development shall be undertaken on shorelines of the City without first obtaining a Substantial Development Permit from the City. Applications for such permits shall be made on forms provided by the Administrator. An application shall provide the information necessary to be considered complete as specified in the application process.

**1. Review Process and Notice Provisions.** A Substantial Development Permit is a Type II permit subject to the review process and notice requirements found in EMC 15.20. In the event of a conflict between EMC 15.22 and this Chapter, this Chapter prevails.

**2. Decision Criteria.** A Substantial Development Permit must be consistent with the policies and regulations contained within the City's Shoreline Master Program and the requirements of the RCW 90.58.

**3. Decision.** The Administrator shall file the permit decision with the Department of Ecology and the Attorney General. Construction of development authorized by a shoreline substantial development permit shall not begin until twenty-one (21) days from the date that the permit is filed by the Department of Ecology or until after all properly filed appeals are terminated.

**B. Shoreline Conditional Use Permit.** A shoreline conditional use is any use, development, or substantial development classified as a conditional use or any use not classified within the SMP. A Shoreline Conditional Use Permit allows flexibility in varying the application of the use regulations consistent with the shoreline master program, the comprehensive plan, and the SMA. Shoreline Conditional Use Permits should also be granted in a circumstance where denial of the permit would result in a thwarting of those same policies. In authorizing a Shoreline Conditional Use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use. Uses that are specifically prohibited may not be authorized with approval of a Shoreline Conditional Use Permit. Applications for such permits shall be made on forms provided by the administrator. An application shall provide the information necessary to be considered complete as specified in the application process.

**1. Review Process and Notice Provisions.** A Shoreline Conditional Use permit is a Type IV permit subject to the review process and notice requirements found in EMC 15.24. In the event of a conflict between EMC 15.24 and this Chapter, this Chapter will prevail.

**2. Decision Criteria.**

- a. Uses classified as Shoreline Conditional Uses may be authorized provided the applicant can demonstrate the proposal meets WAC 173-27-160 and all of the following are met:
  - i. That the proposed use will be consistent with the policies of the SMA and the policies of the master program.
  - ii. That the proposed use will not interfere with the normal public use of public shorelines.
  - iii. That the proposed use of this site and design of the project will be compatible with other permitted uses within the area.
  - iv. That the proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located.
  - v. That the public interest suffers no substantial detrimental effect.

b. Other uses that are not classified or set forth in the master program may be authorized as conditional uses provided that the applicant can demonstrate, in addition to the criteria set forth in Subsection a of this section, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

c. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests or like actions in the area.

**3. Decision.** All Shoreline Conditional Uses issued by the City must be submitted to the Washington State Department of Ecology (Ecology) for its approval or disapproval. A decision is not final until submitted to and approved by the Washington State Department of Ecology. Construction of development authorized by a shoreline conditional use permit shall not begin until twenty-one (21) days from the date that the decision by the Department of Ecology is transmitted to the Administrator, or until after all properly filed appeal proceedings are terminated.

**C. Shoreline Variance.** The purpose of a variance is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the master program where there are extraordinary or unique circumstances relating to the properties such that the strict implementation of the master program would impose unnecessary hardships on the applicant or thwart the policies set forth in the SMA.

**1. Review Process and Notice Provisions.** A Shoreline Conditional Use permit is a Type IV permit subject to the review process and notice requirements found in EMC 15.24. Where there is a conflict between EMC 15.24 and this Chapter, this Chapter will prevail.

**2. Decision Criteria.** The criteria for granting variances shall be consistent with WAC 173-27-170 and include the following:

- a. Variances should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in the SMA. In all instances, extraordinary circumstances should be shown, and the public interest shall suffer no substantial detrimental effect.
- b. Variances for development that will be located landward of the ordinary high-water mark may be authorized provided the applicant can demonstrate all of the following:
  - i. That the strict application of the bulk, dimensional, or performance standards as set forth in the master program precludes or significantly interferes with a reasonable permitted use of the property.
  - ii. That the hardship is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features, in the application of the master program and not, for example, from deed restrictions or the applicant's own actions.

- iii. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation.
  - iv. That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area, and will be the minimum necessary to afford relief.
  - v. That the public interest will suffer no substantial detrimental effect.
- c. Variances for development that will be located waterward of the ordinary high-water mark may be authorized provided the applicant can demonstrate all of the criteria specified in Subsection C.2.b, above. The applicant must also demonstrate that the public rights of use of the shorelines will not be adversely affected by the granting of the variance, and 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.
- d. In granting of all variances, consideration shall be given to the cumulative impact of additional requests or like actions in the area.

**3. Decision.** All shoreline variances issued by the City must be submitted to the Washington State Department of Ecology (Ecology) for its approval or disapproval. A decision is not final until submitted to and approved by the Washington State Department of Ecology. Construction of development authorized by a shoreline variance shall not begin until twenty-one (21) days from the date that the decision by the Department of Ecology is transmitted to the Administrator, or until after all properly filed appeal proceedings are terminated.

**D. Shoreline Exemption.** Certain activities, developments or uses are exempt from the Substantial Development Permit requirements of the Act and this Program. These developments are those set forth in WAC 173-27-040 (or as amended), and do not meet the definition of substantial development under RCW 90.58.030(3)(e). If a development does not meet the definition of “Substantial Development”, it may be exempt from the requirement to obtain a Shoreline Substantial Development, but may require a Shoreline Conditional Use Permit, Shoreline Variance, or a Statement of Exemption.

**1. Statement of Exemption Required.** Applicants for all non-shoreline permits or approvals within the shoreline jurisdiction must obtain a written “Statement of Exemption” from securing a Shoreline Substantial Development Permit. This process verifies the action is exempt and offers the applicant an itemization of shoreline policies and other requirements applicable to the proposed project.

**2. Review Process.** A statement of exemption is an administrative determination. Before determining a proposal is exempt, the Administrator may conduct a site inspection to ensure the proposal meets the exemption criteria.

**3. Decision Criteria.** An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this Master Program, and other applicable city, state, or federal permit requirements. The exemption granted may be conditioned to ensure the activity is consistent with the Shoreline Master Program, the City's Comprehensive Plan, and SMA. The City shall attach shoreline management terms and conditions to the building permits and other permits and approval pursuant to RCW 90.58.140.

**4. Exemptions Waterward of OHWM.** Whenever a development falls within the exemption criteria and is subject to a US Army Corps of Engineers Section 10 or Section 404 Permit, the Administrator shall prepare a Statement of Exemption, and transmit a copy to the applicant and the Washington State Department of Ecology.

**E. Development Exceptions.** These exceptions are not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

**1. Remedial actions.** Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

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

**3. WSDOT facility maintenance and safety improvements.** Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

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

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

### **15.36.040 APPEALS**

A. Local Appeals. Any decision made by the Administrator regarding shoreline exemptions, statement of exemptions, shoreline policy or regulation interpretations may be appealed to the Hearing Examiner pursuant to EMC 15.06.070.

B. Appeal to State Shorelines Hearings Board. Any person aggrieved by the granting, denying, rescinding, or revision of a shoreline substantial development permit, shoreline conditional use permit, shoreline variance or shoreline permit revision may seek review from the State Shorelines Hearings Board by filing an original and one (1) copy of the request with the Hearings Board within twenty-one (21) days of the date that the permit decision is filed by Ecology. The date of filing is defined below:

1. For projects that only require a Substantial Development Permit: the date that Ecology receives the Enumclaw decision.
2. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and Enumclaw.
3. For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and Enumclaw.

### **15.36.050 TIME LIMITS**

A. Duration of Permits. The City may issue shoreline permits with termination dates of up to five (5) years. If a permit does not specify a termination date, the following requirements apply, consistent with WAC 173-14-060:

- 1. Time Limit for Substantial Progress.** Construction, or substantial progress toward completion, must begin two (2) years after approval of the shoreline permit.
- 2. Extension for Substantial Progress.** The City may, at its discretion with prior notice to parties of record and Ecology, extend the two (2) year time period for the substantial progress for a reasonable time up to one (1) year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

B. Five (5) Year Permit Authorization. If the applicant has not completed construction within five (5) years of approval, the City will review the shoreline permit and, upon showing of good cause, will either extend the permit for one (1) year, or terminate the permit. Prior to the City authorizing any permit extensions, it shall notify any parties of record and Ecology.

### **15.36.060 REVISIONS TO PERMITS (SEE ALSO WAC 173-27-100)**

A. When an applicant seeks to revise a substantial development, conditional use, or variance permit, the Planning Department shall request from the applicant detailed plans and text describing the proposed changes in the permit.

B. If the planning staff determines that the proposed changes are within the scope and intent of the original permit, the revision may be approved, provided it is consistent with Chapter 173-27 WAC, the SMA, and this master program. “Within the scope and intent of the original permit” means the following:

1. No additional over-water construction will be involved.
2. Lot coverage and height may be increased a maximum of 10 percent from provisions of the original permit, provided that revisions involving new structures not shown on the original site plan shall require a new permit.
3. Landscaping may be added to a project without necessitating an application for a new permit if consistent with the conditions attached to the original permit and with the Shoreline Master Program.
4. The use authorized pursuant to the original permit is not changed.
5. No additional significant adverse environmental/ecological impact will be caused by the project revision.
6. The revised permit shall not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof.

C. If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the City shall require the applicant to apply for a new substantial development, conditional use, or variance permit, as appropriate, in the manner provided for herein.

D. Revisions to permits may be authorized after original permit authorization has expired under RCW [90.58.143](#). The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter [90.58](#) RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

E. The revision approval, including the revised site plans and text consistent with the provisions of WAC [173-27-180](#) as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the Department of Ecology in the same manner as required for the original permit. In addition, local government shall notify parties of record of their action.

F. If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to Ecology for the Ecology's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27-100. Ecology will render and transmit to local government and the applicant its final decision within fifteen days of the date of its receipt of the submittal from local government. Local government shall notify parties of record of the Ecology's final decision.

G. The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection F of this section, upon final action by the department.

#### **15.36.070 NON-CONFORMING USES**

A. The provisions of the EMC Section 15.10, Non-Conforming Uses, are incorporated into this SMP as though fully set forth herein, with the following exception:

If a non-conforming development is damaged to an extent not exceeding seventy-five percent (75%) replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, and all permits are obtained and the restoration is completed within two years of permit issuance;

B. All references to provisions contained in the EMC Chapter 18, Enumclaw Zoning Code shall be construed as referring to this SMP (including shoreline permits), and all references to zoning environments shall represent shoreline environment designations as established by this SMP.

#### **15.36.080 ENFORCEMENT**

A. Enforcement and penalties shall be consistent with WAC 173-27-240 through WAC 173-27-300.

B. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad

faith of the persons subject to the enforcement action, the benefits accrued to the violator, and the cost of obtaining compliance may also be considered.

## **6.2 DOCUMENTATION OF PROJECT REVIEW ACTIONS AND CHANGING CONDITIONS IN SHORELINE AREAS**

- A. The City will keep on file documentation of all project review actions, including applicant submissions and records of decisions, relating to shoreline management provisions in this SMP.
- B. The City may develop a user-friendly and statistically rigorous monitoring program to review ecological conditions within the shoreline jurisdiction in order to determine that no-net-loss of shoreline ecological functions is occurring under the SMP. The City will determine whether or not other actions are necessary to protect and restore ecological functions, protect human health and safety, and enhance public access to and recreational uses on the City's shorelines. Specific issues to be addressed in such evaluations include, but are not limited to:
  - 1. Water quality.
  - 2. Conservation of native vegetation (control of noxious weeds and enhancement of vegetation that supports more ecological functions and recreational conditions).
  - 3. Visual character and aesthetics as a result of new residential development, including additions, and individual vegetation conservation practices.
  - 4. Shoreline stabilization and modifications.
  - 5. Public access, use and information related to shorelines.
- C. The City will keep records of all project review actions within shoreline jurisdiction, including shoreline permits, letters of exemption, and building permits.
- D. The City may use the results of the monitoring program analysis and records review to formally document net-gain or net-improvement in shoreline functions.
- E. The City may determine an accounting methodology in order to document shoreline function improvement credits.
- F. The City may determine how to apply documented credits toward future projects located within the shoreline jurisdiction or that have a direct or indirect effect of functions within the shoreline

jurisdiction, as mitigation for separate City or private projects that serve the public interest and are in keeping with the goals of this SMP.

### **6.3 AMENDMENTS TO THIS MASTER PROGRAM**

If the City determines it necessary, the City will review shoreline conditions and update this SMP within 7 years of its adoption.

#### **6.3.1 PERIODIC REVIEW PROCESS**

The City of Enumclaw will conduct the periodic review process consistent with requirements of RCW 90.58.080 and WAC 173-26-090.

#### **6.3.2 MORATORIA AUTHORITY AND REQUIREMENTS**

The City has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

A. Before adopting the moratorium must:

- i. Hold a public hearing on the moratorium or control;
- ii. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;
- iii. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.

a. The public hearing must be held within sixty days of the adoption of the moratorium or control.

B. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

C. A moratorium or control may be renewed for one or more six-month period if the City complies with the requirements in subsection (A) above before each renewal.

#### **6.3.3 SPECIAL PROCEDURES FOR WSDOT PROJECTS**

A. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

- B. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

## 7.0 DEFINITIONS

*Accessory use.* Any structure or use incidental and subordinate to a primary use or development.

*Adjacent lands.* Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

*Administrator.* The City of Enumclaw Community Development Director or his/her designee, charged with the responsibility of administering the Shoreline Master Program.

*Appurtenance.* A structure or development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a state-wide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, and grading that does not exceed 250 cubic yards.). Structures and activities considered normal residential appurtenances include garages, sheds, decks attached to primary structures, private pedestrian pathways, stairways to access shorelines, ramps, patios, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, wind power generators serving a single structure, satellite dishes, official registered historic structures, and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM.

*Aquatic.* Pertaining to those areas waterward of the ordinary high water mark.

*Aquaculture.* The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

*Archaeological.* Having to do with the scientific study of material remains of past human life and activities.

*Average grade level.* See “base elevation.”

*Base elevation.* The average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle that will enclose the proposed structure, excluding eaves and decks. The approved topography of a parcel is the natural topography of a parcel or the topographic conditions approved by the City prior to August 10, 1969, or as approved by a subdivision, short subdivision, binding site plan, shoreline substantial development permit, filling and grading permit, or SEPA environmental review issued after August 10, 1969. An approved benchmark will establish the relative elevation of the four points used to establish the base elevation.

*Beach.* The zone of unconsolidated material that is moved by waves and wind currents, extending landward to the shoreline.

*Berm.* A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

*Bioengineering.* The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology. Bioengineering shall not include rock revetments as a component of erosion control.

*Biofiltration system.* A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

*Buffer.* A parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife and to afford limited public access.

*Building height.* The vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

*Bulkhead.* A solid wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

*Buoy.* An anchored float for the purpose of mooring vessels.

*Channel.* An open conduit for water, either naturally or artificially created; does not include artificially created irrigation, return flow, or stock watering channels.

*City.* The City of Enumclaw, Washington.

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

*Conditional use.* A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program.

*Covered moorage.* Boat moorage, with or without walls, that has a roof to protect the vessel.

*Ecology.* The Washington State Department of Ecology.

*Development.* 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 that 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).) *Development* does not include dismantling or removing structures if there is no other associated development or re-development.

*Development regulations.* The controls placed on development or land uses by a county or city, 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.

*Dock.* A structure that abuts the shoreline and is used as a landing or moorage place for craft. A dock may be built either on a fixed platform or float on the water. See also “development” and “substantial development.”

*Document of record.* The most current shoreline master program officially approved or adopted by rule by Ecology for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190

*Dredging.* Excavation or displacement of the bottom or shoreline of a water body.

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

*Ecological processes.* The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

*Emergency.* 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 the master program. Emergency construction is construed narrowly as that which is necessary to protect property and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the local master program. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3eiii).)

*Enhancement.* Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects.

*Erosion.* The wearing away of land by the action of natural forces.

*Exemption.* Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit. (RCW 90.58.030(3e); WAC 173-27-040.) (See also "development" and "substantial development.")

*Fair market value.* The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

*Feasible.* For the purpose of this master program, 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, or studies or tests have demonstrated 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.
- (c) The action does not physically preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City Council may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

*Fill.* The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

*Fish and wildlife habitat conservation areas:* areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species (WAC 365-190-030).

- a) *Habitats of local importance* designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities.
- b) *Fish and wildlife habitat conservation areas* does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company, unless the following are present:
  1. Used by salmonids; or
  2. Used to convey a stream that occurred naturally before construction of the artificial channel.

*Floats.* An anchored, buoyed object.

*Floodway.* FEMA definition: means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include 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.

*Forest land* (RCW 76.09.020(14)) means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

- (a) Residential home sites, which may include up to five acres; and
- (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

*Forest practice* (RCW 76.09.020(16)) 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.

*Gabions.* Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

*Geologically hazardous areas:* areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns (RCW 36.70A.030).

*Geotechnical report (or geotechnical analysis).* 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 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 engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.

*Grade.* See “base elevation.”

*Grading.* The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

*Grassy Swale.* A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

*Guidelines.* Those standards adopted by the Washington State Department of Ecology (Ecology) into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending master programs.

*Habitat.* The place or type of site where a plant or animal naturally or normally lives and grows.

*Height.* See “building height.”

*Hydrological.* Referring to the science related to the waters of the earth including surface and groundwater movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

*Letter of exemption.* A letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this section, and the applicable master program.

*Littoral.* Living on, or occurring on, the shore.

*Littoral drift.* The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

*May.* Refers to actions that are acceptable, provided they conform to the provisions of this master program and the SMA.

*Mitigation (or mitigation sequencing).* The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence priority, with (a) of this subsection being top priority. See Section 5.2.1.3 (D).

- (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 to avoid or reduce impacts.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations.
- (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

*Multi-family dwelling (or residence).* A building containing two or more dwelling units, including but not limited to duplexes, apartments, and condominiums.

*Must.* A mandate; the action is required.

*Nonconforming development or Nonconforming structure.* An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

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

*Nonconforming use.* An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

*Non-point pollution.* Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

*Non-water-oriented uses.* Those uses that are not water-dependent, water-related, or water-enjoyment.

*Normal maintenance.* Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also “normal repair.”

*Normal repair.* To restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. (WAC 173-27-040.) See also “normal maintenance” and “development.”

*Offsite replacement.* To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

*Ordinary high water mark* or *OHWM*, per WAC 173-22-030. “The 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.” The following criteria clarify this mark on streams: “where the ordinary high water mark cannot be found, it shall be the line of mean high water.”

Note that the OHWM is to be determined/delineated based on most recent guidance provided by Ecology, “Determining the Ordinary High Water Mark on Streams in Washington State.”

*Party of record.* All persons, agencies, or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

*Periodic.* Occurring at regular intervals.

*Person.* An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1d).)

*Provisions.* Policies, regulations, standards, guideline criteria or designations.

*Public interest.* The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

*Residential development.* Development that is primarily devoted to or designed for use as a dwelling(s).

*Restore (restoration).* To significantly re-establish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement condition.

*Revetment.* Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

*Riprap.* A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

*Runoff.* Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

*Sediment.* The fine grained material deposited by water or wind.

*State Environmental Policy Act or SEPA.* SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, Environmental Impact Statements may be required to be prepared and public comments solicited.

*Setback.* A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

*Shall.* A mandate; the action must be done.

*Shorelands.* All lands within Shoreline Management Act jurisdiction lying upland or higher in elevation of the OHWM.

*Shoreline areas (and shoreline jurisdiction).* The same as “shorelines of the state” and “shorelands” as defined in RCW 90.58.030, and explained in the Shoreline Characterization Report.

*Shoreline environment designations.* The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. Shoreline designations in Enumclaw include: Aquatic, Urban Conservancy, Residential.

*Shoreline functions.* See “ecological functions.”

*Shoreline jurisdiction.* The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. Also, such areas within a specified local government’s authority under the SMA. See definitions of “shorelines”, “shorelines of the state”, “shorelines of state-wide significance” and “wetlands.” See also the “Shoreline Jurisdiction” section (1.2) in the “Introduction” of this master program.

*Shoreline Master Program or SMP.* This Shoreline Master Program, as adopted by the City of Enumclaw and approved by Ecology.

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

*Shoreline permit.* A substantial development, conditional use, revision, or variance permit or any combination thereof.

*Shoreline property.* An individual property wholly or partially within shoreline jurisdiction.

*Shoreline restoration, restoration, or ecological restoration.* The re-establishment 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. Shoreline restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

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

*Shorelines of the state.* The total of all “shorelines” and “shorelines of state-wide significance” within the state.

*Shorelines of state-wide significance.* A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

*Should.* The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this shoreline master program, against taking the action.

*Sign.* A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

*Significant ecological impact.* An effect or consequence of an action if any of the following apply:

- (a) The action measurably or noticeably reduces or harms a site-specific ecological function or ecosystem-wide process.
- (b) Scientific evidence or objective analysis indicates the action could cause reduction or harm to those site-specific ecological functions or cumulative ecosystem-wide processes described in the Shoreline Characterization Report.
- (c) Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to site-specific ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

*Significant vegetation removal.* The removal or alteration of native trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant site-specific ecological impacts to functions provided by such vegetation. The removal of invasive, non-native, 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.

*Single-family residence.* A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership that is a normal appurtenance.

*Shoreline Management Act or SMA.* The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

*Shoreline Characterization Report.* The report prepared by Landau Associates entitled “City Enumclaw Shoreline Master Program Characterization Report, Enumclaw, Washington” dated January 9, 2009 as amended by Addendum No. 1 dated July 31, 2010.

*State Environmental Policy Act or SEPA.* SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, Environmental Impact Statements may be required to be prepared and public comments solicited.

*Stormwater.* That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

*Stream.* A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also “channel.”

*Structure.* A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels.

*Subdivision.* The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

*Substantial development.* “Substantial development” shall mean any development of which the total cost or fair market value exceeds that cited in RCW 90.58.030(3)(e), or any development that 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 5 years, beginning July 1, 2007, based upon changes in the consumer price index during that time period per RCW 90.58.030(3)(e).

*Substantially degrade.* To cause reduce area’s ecological functions. An action is considered to substantially degrade the environment if:

- (a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or
- (b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or
- (c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

*Terrestrial.* Of or relating to land as distinct from air or water.

*Transportation (Facilities).* A structure or development(s) that aid in the movement of people, goods or cargo by land, water, air or rail. They include but are not limited to highways, bridges, causeways, bikeways, trails, railroad facilities, ferry terminals, float plane – airport or heliport terminals, and other related facilities.

*Upland.* Generally described as the dry land area above and landward of the ordinary high water mark.

*Utility.* A public or private agency that provides a service that is used or available to the general public (or a locationally specific population thereof). Such services may include, but are not limited to, stormwater detention and management, sewer, water, telecommunications, cable, electricity, and natural gas.

*Utility (Accessory).* Accessory utilities are small-scale distribution services connected directly to the uses along the shoreline that are not carrying significant capacity to serve other users that are not located in the shoreline jurisdiction.

*Variance.* A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program and not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and Ecology.

*Vessel.* Ships, boats, barges, or any other floating craft that are designed and used for navigation and do not interfere with normal public use of the water.

*WAC.* Washington Administrative Code.

*Water-dependent.* A use or a portion of a use that 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 fishing, boat launching, swimming, and stormwater discharges.

*Water-enjoyment.* 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. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water.
- Docks, trails, and other improvements that facilitate public access to shorelines of the state.
- Restaurants with water views and public access improvements.
- Museums with an orientation to shoreline topics.
- Scientific/ecological reserves.
- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

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

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

*Water quantity.* Where used in this document, the term “water quantity” refers only to development and uses regulated under this section and affecting water quantity, such as impervious surfaces and stormwater handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

*Water-related use.* A use or portion of a use that 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.

*Weir:* A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment of other moving objects transported by water.

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

*Zoning.* The system of land use and development regulations in Title 18 and related provisions of the Enumclaw Municipal Code.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

**Appendix A:  
City of Enumclaw Critical Areas Regulations  
for the Shoreline Master Program**

## Chapter 19.02 CRITICAL AREAS REGULATIONS

Sections:

### Article I. General Provisions

- 19.2.005 Definitions
- 19.2.010 Policy, Goals, Purpose, and Intent.
- 19.2.020 Applicability, Regulated Activities, and Exempt Activities.
- 19.2.030 Exceptions.
- 19.2.040 Assessment Relief.

### Article II. Critical Areas

- 19.2.050 Findings of Fact
- 19.2.060 Frequently Flooded Areas
- 19.2.070 Geologically Hazardous Areas
- 19.2.080 Critical Aquifer Recharge Areas
- 19.2.090 Wetland Category and Buffer Widths
- 19.2.100 Fish and Wildlife Habitat Conservation Areas – Habitat Types and Buffer Widths
- 19.2.110 Resource Lands
- 19.2.120 Critical Area Maps and Data Bases.

### Article III. Critical Area Permit

- 19.2.130 General Requirements
- 19.2.140 Submittal Requirements
- 19.2.150 Critical Area Review
- 19.2.160 Financial Guarantee

### Article IV. Development Standards for Critical Areas

- 19.02.170 Critical area development standards.
- 19.02.180 Critical Areas Management Incentives
- 19.02.190 Critical area tracts and easements.
- 19.02.200 Deed restrictions and setbacks.

### Article V. Compensatory Mitigation for Critical Area Impacts

- 19.02.210 Mitigation Sequencing
- 19.02.220 Mitigation Plans
- 19.02.230 Critical Area Impact Mitigation
- 19.02.240 Alternative Mitigation Strategies
- 19.02.250 Mitigation Area Performance Standards.

### APPENDICES

- APPENDIX A: Wetland Rating Criteria
- APPENDIX B: Critical Area Report Content
- APPENDIX C: Mitigation Plan Requirements
- APPENDIX D: Critical Area Definitions

**APPENDIX E:** Critical Area Identification Form

**APPENDIX F:** Critical Area Buffer Risk and Opportunity Rating Form

**APPENDIX G:** WAC 220-16-030 (Rev. 2004) – DNR Stream Types

## Article I. General Provisions

**19.02.005 Definitions.** The definition of terms used in the Chapter are provided in Appendix D: Critical Areas Definitions.

### 19.2.10 Policy, Goals, Purpose, and Intent.

**A. Policy:** It is the policy of the City of Enumclaw (City) to require site evaluation, planning and review prior to project permitting and construction to:

- (1) avoid or minimize damage to critical areas wherever possible;
- (2) recognize and respond to the need for flood control and flood-resistant building practices within frequently flooded areas;
- (3) identify and regulate geologically hazardous areas that either are not suited for, or would probably impose significant limitations on, building construction, road construction or disturbance and be consistent with public health and safety concerns;
- (4) identify and protect aquifer recharge areas for aquifers used for potable water;
- (5) require that land use activities not dependent upon the location of a critical area be located in areas outside of the identified or delineated critical area and its associated buffer;
- (6) achieve no net loss of wetland function and value by requiring restoration or enhancement of degraded wetlands or creation of new wetlands to offset losses that are unavoidable;
- (7) define and protect fish and wildlife habitat conservation areas; and
- (8) be consistent with public health and safety concerns.

**B. Goals.** By regulating land use activities within critical areas and their attendant buffers, this Chapter seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;
2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
4. Allow modification and/or obliteration of low function and value wetland, stream, and wildlife habitats in conjunction with off-site mitigation and restoration in designated areas where the addition of created and/or enhanced habitats will increase fish and wildlife production, public benefits, and economic viability in the City limits and urban growth areas; and
5. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

**C. Purpose:** The purpose of this Chapter is to protect the public health, safety, and welfare of the citizens of the City as well as the critical areas regulated within the City by:

1. defining, designating, and classifying ecologically sensitive and hazardous areas to be regulated in the City;
2. providing City officials with information to evaluate, approve, condition, or deny public or private development proposals based upon the regulations outlined in this Chapter;
3. enforcing the regulations outlined in this Chapter to prevent the adverse impacts of development within and adjacent to critical areas;
4. protecting the public against critical area losses due to:
  - a. unnecessary maintenance and replacement of public facilities, including the dredging of ports and navigation channels;

- b. publicly funded mitigation of avoidable impacts;
  5. protecting the private property rights of property owners in the City by alerting appraisers, assessors, owners, and potential buyers or lessees to the development limitations of critical areas;
  6. providing alternative enforcement strategies, incentives, and/or compensation to property owners whose property would be rendered partially or fully undevelopable due to the enforcement of the regulations outlined in this Chapter, and who, by cooperating with the City in implementing the regulations outlined in the Chapter rather than pursuing reasonable use alternatives, allow for a net improvement in the regulated critical area's habitat quality and wildlife/fish production;
  7. protecting, enhancing, restoring, and mitigating impacts to regulated critical areas and their functions and values, while also allowing for reasonable use of private property and economic viability in the City.
  8. implementing the current goals, policies, guidelines, and requirements of the City's Comprehensive Plan, the State of Washington (State) Growth Management Act, and the State Environmental Policy Act (SEPA); as well as all updated (future) versions of City environmental regulations and community (or comprehensive) plans, applicable State community development and environmental regulations, and applicable Federal regulations.
- D. Intent:** The regulations detailed in this Chapter are intended to provide the City a basis for protecting, restoring, enhancing, and/or obliterating (with approved mitigation) the designated and classified critical areas in accordance with the Shoreline Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

In addition, it is the intent of the city that activities in or affecting wetlands not threaten public safety, cause nuisances, or destroy or degrade natural wetland functions and values by:

1. Impeding flood flows, reducing flood storage capacity, or impairing natural flood control functions, thereby resulting in increased flood heights, frequencies, or velocities on other lands;
2. Increasing water pollution through location of domestic waste disposal systems in wetlands, unauthorized application of pesticides and herbicides, disposal of solid waste at inappropriate sites, creation of unstable fills, or the destruction of wetland soils and vegetation;
3. Increasing erosion;
4. Decreasing breeding, nesting, and feeding areas for many species of waterfowl and shorebirds, including those rare and endangered;
5. Interfering with the exchange of nutrients needed by fish and other forms of wildlife;
6. Decreasing habitat for fish and other forms of wildlife;
7. Adversely altering the recharge or discharge functions of wetlands, thereby impacting ground water or surface water supplies;
8. Significantly altering wetland hydrology and thereby causing either short or long term changes in vegetative composition, soils characteristics, nutrient cycling, or water chemistry;
9. Destroying sites needed for education and scientific research, such as outdoor biophysical laboratories, living classrooms, and training areas; or
10. Destroying or damaging aesthetic and property values, including significant public view sheds.

**19.2.20 Applicability, Regulated Activities, and Exempt Activities.**

- A. All regulated activities in shoreline jurisdiction shall be subject to the provisions of this Chapter. The provisions of this Chapter shall apply to all lands, all land uses, and development activities, and all structures and facilities in shoreline jurisdiction, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the City. No person, company, agency, or applicant shall alter a critical area or its associated buffer except as consistent with the purposes and requirements of this Chapter and as authorized by the Administrator.
1. **Regulated Activities:** Regulated activities include, but are not limited to, development clearing (vegetation), draining, dredging, dumping or stockpiling (native or non-native organic or inorganic materials), excavating, filling, flooding, grading, harvesting, obstructing, pile driving, or shading (with human-made structures) within critical areas and their associated buffers.
  2. The City shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, for development within areas of special flood hazard or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this Chapter, including, but not limited to, the following:
    - a. Building permit;
    - b. Clearing and grading permit;
    - c. Forest practices permit;
    - d. Conditional use permit;
    - e. Shoreline conditional use permit;
    - f. Shoreline substantial development permit;
    - g. Shoreline exemption;
    - h. Shoreline variance;
    - i. Short subdivision;
    - j. Subdivision;
    - k. Planned unit development;
    - l. Binding site plan;
    - m. Zoning variance;
    - n. Zoning code amendment;
    - o. Flood development permit; or
    - p. Any other adopted permit or required approval not expressly exempted by this Chapter.
  3. Approval of a permit or development proposal pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the provisions of this Chapter.
  4. The City shall not grant any approval or permission to conduct a regulated activity in a critical area unless the activity is in compliance with this Chapter or unless the activity is expressly exempted by this Chapter.
  5. Many state, federal and regional regulations apply to projects conducted within critical areas. Uses and development otherwise allowed by this Chapter do not eliminate other agency regulatory requirements nor the obligation of the applicant to comply with other federal, state, and regional regulations.
- B. **Exempt Activities:** The exempt activities listed in the City's critical areas ordinance do not apply when conducted within shoreline jurisdiction as defined by city of Enumclaw shoreline master program, Chapter 15.36 EMC or if defined as "Development" within Areas of Special Flood Hazard.
- C. This Chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable

*EMC 19.02 - Critical Areas Ordinance - City of Enumclaw*

economic use of the property that would otherwise be allowed under the current code and would be consistent with other allowable uses.

- D.** It is not the intent of this Chapter to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards (see RCW 36.70A.020(12)).
- E.** The City's enactment or enforcement of this Chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.
- F.** It is not the intent of this Chapter to repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. Where this chapter provides more protection to critical areas, however, the provisions of this chapter shall prevail unless specifically provided otherwise in this Chapter.

**19.2.30 Exceptions.**

- A.** Critical area exceptions do not apply within shoreline jurisdiction.

**19.2.40 Assessment relief.**

- A.** Landowners who have dedicated an easement or entered into a perpetual conservation restriction with the City to permanently control some or all regulated activities may have that portion of land exempt from special assessments such as sanitary sewers, storm sewers and water mains.

## Article II. Critical Areas

### 19.2.50 Finding of Fact.

- A. The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the City and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.
- B. Per RCW 36.70A.030(5) Critical Areas include:
  1. Frequently Flooded Areas
  2. Geologically Hazardous Areas
  3. Critical Aquifer Recharge Areas
  4. Wetlands
  5. Fish and Wildlife Habitat Conservation Areas

### 19.2.60 Frequently Flooded Areas

- A. **Finding of Fact:** The City finds that frequently flooded areas provide a variety of valuable and beneficial physical functions that benefit the City and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by frequently flooded areas include, flood storage, conveyance and attenuation of flood waters as well as channel migration zone management.

#### B. Technical Information.

1. **Applicability:** This section shall apply to all areas of special flood hazards and wetlands within the jurisdiction of the City, originally adopted as Chapter 19.04 and amended as a section of Chapter 19.02.
  - a. **Basis for establishing the areas of special flood hazard.** The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study Rate Map dated September 29, 1989 for the City of Enumclaw" dated September, 29, 1989, with accompanying flood insurance maps, is adopted by reference and declared to be part of this chapter. The flood insurance study is on file with the city clerk, City of Enumclaw, City Hall, Enumclaw, Washington.

#### C. Administrator – Duties.

1. When base flood elevation data has not been provided in accordance with the area identified by the Federal Insurance Administration, Scientific and Engineering Report, referred to above, the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source.
2. Where base flood elevation data is provided through the flood insurance study, or as required as in subsection A of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;
3. For all new or substantially improved flood-proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in EMC 19.02.060.C.1:
  - a. Obtain and record actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and
  - b. Maintain the flood-proofing certifications as required in EMC 19.02.060.C.4
4. Maintain for public inspection all records pertaining to the provisions of this ordinance.
5. Interpretation of FIRM Boundaries – The administrator shall make interpretations where needed, as

to the exact location of the boundaries of the areas of special flood hazards. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in EMC 17.02.170.

6. The administrator shall notify adjacent communities and Washington State Department of Ecology prior to any alteration or relocation of a watercourse, submit evidence of such notification to federal insurance administration, and require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
7. Habitat Assessment – The administrator shall require a habitat assessment for all development within areas of special flood hazard (reference “Floodplain Habitat Assessment and Mitigation. Regional Guidance for the Puget Sound Basin,” FEMA Region 10, 2013 or as hereafter revised).

#### **19.2.70 Geologically Hazardous Areas**

- A. Finding of Fact:** Based upon the most recent information the City has determined that only three (3) of the seven (7) Geologically Hazardous Areas listed in WAC 365-190-080 are relevant to the City. Those three categories of Geologically Hazardous Areas are:
1. Erosion Hazard Areas
  2. Landslide Hazard Areas
  3. Seismic Hazard Areas

These are the only areas that will be addressed in this Chapter.

- B. Identification.** The identification of Geologically Hazardous Areas involves the collection of baseline data and the preparation of a Critical Areas Report (see Appendix B and Appendix E) by a Qualified Professional. In the case of geologic hazards the Qualified Professional is a Registered Engineering Geologist or a licensed Geotechnical Engineer. The following is a list of technical information requirements:
1. **Erosion Hazard Areas – Technical Information:** Erosion hazard: areas identified as having high or very high water erosion hazard by the U.S. Department of Agricultural Soil Conservation Service as supplied by the SCS area office;
  2. **Landslide Hazard Areas – Technical Information:** Landslide hazard: areas potentially subject to landslides based upon the following combination of geologic, topographic and hydrologic factors:
    - a. Areas of historic failure including:
      - (1) Those areas delineated by the U.S. Department of Agriculture, Soil Conservation Service, as having “severe” limitations for building site development,
      - (2) Those areas mapped as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resource Division of Geology and Earth Resources,
    - b. Areas with all three of the following characteristics:
      - (1) Slopes of 15 percent gradient or greater, and
      - (2) Hillsides intersecting geologic contacts with a relatively permeable sediment overlaying a relatively impermeable sediment or bedrock, and
      - (3) Springs or ground water seepage,
    - c. Areas that have shown movement during the Holocene Epoch or which are underlain or covered by mass wastage debris of the epoch,
    - d. Slopes that are parallel or sub-parallel to planes or weakness in subsurface materials,
    - e. Privately owned areas with slopes that have gradients greater than 80 percent subject to rock fall during seismic shaking,
    - f. Technical Information.
      - (1) Identify and quantify geologic, topographic and hydrologic factors that might contribute to slope instability. The rate and extent of potential hazards to development activity must be assessed and mitigation measures, if any, evaluated. The proposed development must be

analyzed in light of the hazards and effects represented by the landslide exposure on proposed private and public investments. Development operational factors should be included in the analysis to account for the effects of residential landscape irrigation, storm water generation from impervious surfaces and the influence of street conveyance on slope stability.

(2) The submittal of a geotechnical report establishing the suitability of the site for construction shall be required.

(3) If found to be suitable, a professional registered engineer shall design a foundation that accommodates on-site conditions.

**3. Seismic Hazard Areas – Technical Information.**

a. Identify and quantify geologic factors that might contribute to seismic activity. The rate and extent of potential hazards to development activity must be assessed and mitigation measures, if any, evaluated.

b. The proposed development must be analyzed in light of the hazards and effects represented by the seismic exposure on proposed private and public investments.

**19.2.80 Critical Aquifer Recharge Areas**

**A. Finding of Fact:** No Category I Critical Aquifer Recharge Areas have been identified or designated within the City Limit of, or within the Urban Growth Area around, the City of Enumclaw (12/2004).

**B. Critical Aquifer Recharge Areas - Categories. Critical aquifer recharge areas are categorized as follows:**

**1. Category I Critical Aquifer Recharge Areas** include those mapped areas that Enumclaw has determined are highly susceptible to groundwater contamination and that are located within a sole source aquifer or a wellhead protection area;

**2. Category II Critical Aquifer Recharge Areas** include those mapped areas that Enumclaw has determined:

a. have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or

b. are highly susceptible to groundwater contamination and are not located in a sole source aquifer or wellhead protection area; and

**3. Category III Critical Aquifer Recharge Areas** include those mapped areas that Enumclaw has determined have low susceptibility to groundwater contamination.

**4. Technical Information Requirements:** Delineation of the recharge areas on a scaled development plan and detailed information on the following items:

a. Hydro-geological susceptibility to contamination and contamination loading potential;

b. Depth to ground water;

c. Hydraulic conductivity and gradient;

d. Soil permeability and contamination attenuation;

e. A vadose zone analysis including permeability and attenuation properties;

f. An analysis of the recharge area's toleration for impervious surfaces in terms of both aquifer recharge and the effect on water quality degradation;

g. A summary of the proposed development's effect on the recharge area concentrating on items "d" and "f";

h. Existing aquifer water quality analysis.

**19.2.90 Wetlands – Category and Buffer Widths**

**A.** Wetlands are described by wetland class, wetland category in Appendix A.

**B.** Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

**C.** Buffer Requirements. The standard buffer widths in Table 2A have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the *Washington State Wetland Rating System for Western*

**EMC 19.02 - Critical Areas Ordinance - City of Enumclaw**

*Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology).

1. The use of the standard buffer widths requires the implementation of the measures in Table 2B, in addition to a relatively undisturbed, protected vegetated corridor at least 100-foot wide between the wetland and any other Priority Habitats as defined by the Washington Department of Fish and Wildlife, where applicable, to minimize the impacts of the adjacent land uses. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.
2. If an applicant chooses not to apply the mitigation measures in Table 2B, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
3. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

<b>Table 2A Wetland Buffer Requirements</b>						
<b>Category</b>	<i>With minimization measures</i>			<i>Without minimization measures</i>		
	<b>Habitat Score</b>			<b>Habitat Score</b>		
	<b>3-5</b>	<b>6-7</b>	<b>8-9</b>	<b>3-5</b>	<b>6-7</b>	<b>8-9</b>
<b>I: Based on Total Score</b>	75	110	225	100	150	300
<b>I: Bogs &amp; Wetlands of High Conservation Value</b>	190	190	225	250	250	300
<b>I: Forested</b>	75	110	225	100	150	300
<b>II</b>	75	110	225	100	150	300
<b>III</b>	60	110	225	80	150	300
<b>IV</b>	40			50		

**Table 2B Required measures to minimize impacts to wetlands**  
(Measures are required, where applicable to a specific proposal)

<b>Disturbance</b>	<b>Required Measures to Minimize Impacts</b>
Lights	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> <li>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</li> </ul>

Toxic runoff	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>• Establish covenants limiting use of pesticides within 150 ft of wetland</li> <li>• Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>• Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> <li>• Use Low Intensity Development techniques (per PSAT publication on LID techniques)</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>• Place wetland and its buffer in a separate tract or protect with a conservation easement</li> </ul>
Dust	<ul style="list-style-type: none"> <li>• Use best management practices to control dust</li> </ul>
Disruption of corridors or connections	<ul style="list-style-type: none"> <li>• Maintain connections to offsite areas that are undisturbed</li> <li>• Restore corridors or connections to offsite habitats by replanting</li> </ul>

**D. Increased Wetland Buffer Area Width.** Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

1. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
2. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
3. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

**E. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:**

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.
2. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
3. The total area of the buffer after averaging is equal to the area required without averaging.
4. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

**F. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:**

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
  2. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.
  3. The total buffer area after averaging is equal to the area required without averaging.
  4. The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- G.** Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- H.** Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.
- I.** Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond (EMC 19.02 Appendix C).
- J.** Impacts to Buffers. Requirements for the compensation for impacts to buffers are below.
- K.** Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.
- L.** Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
  2. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
    - a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
    - b. Wildlife-viewing structures.
  3. Educational and scientific research activities.
  4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
  5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
  6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
  7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

8. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:
  - a. No other location is feasible; and
  - b. The location of such facilities will not degrade the functions or values of the wetland; and
  - c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
9. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

### **19.2.100 Fish and Wildlife Conservation Areas – Habitat Types and Buffer Widths**

- A. Finding of Fact:** There are 8 types of habitat listed in WAC 365-190-080(5) to be designated as fish and wildlife habitat conservation areas. In addition, there are 6 considerations to be factored into the designation process. Within the City of Enumclaw and its urban growth areas there are only two types of habitat present that will be classified or designated as fish and wildlife habitat conservation areas. The two types are stream habitat and buffers (riparian areas) adjacent to regulated streams or water bodies.

The latter will be important in the overall effort to restore and enhance salmonid habitat as well as for creating open space corridors adjacent to the two major watercourses in, or in close proximity to, the City. Those two watercourses, Boise Creek and Newaukum Creek, and their associated buffers will be candidate areas for critical area mitigation opportunities that are consistent with goals and objectives defined in the City's Comprehensive Plan and in the watershed restoration and management plans being developed in Water Resource Inventory Area (WRIA) 9, which is the Green River watershed and in WRIA 10, which is the White River watershed.

- B. Technical Information.** The following is a list of technical information to be included in a Critical Areas Report (see Appendix E) prepared by a Qualified Professional for submit to the City as part of a Critical Areas Permit:
1. Using standard field data collection methods a Qualified Professional will identify and delineate stream and riparian habitats located within and immediately adjacent to a proposed project site.
  2. Habitat areas suited for any life stage of any endangered, threatened, and sensitive species or priority habitats defined by the Washington State Department of Fish and Wildlife shall be identified, delineated, and reported to the City.
  3. The investigation shall include relative density and species richness, breeding, habitat, seasonal range dynamics and movement corridors.
  4. The analysis shall address the relative tolerance by species of human activities.
  5. The development proposal shall be evaluated in terms of its influence on the above wildlife factors.
  6. The location of fish-bearing streams, corresponding buffers, and the high water mark shall be identified on a site plan that shall be included in the Critical Areas Report.
  7. The Administrator will review the technical information presented in the Critical Areas Report. Based upon the description of potential development related impacts and the discussion of potential risk of impacts to fish and wildlife species as well as their respective habitats the Administrator will recommend the need for preparation of a mitigation plan.
  8. The Administrator shall require the Applicant to submit a Final Critical Areas Report identifying Fish and Wildlife Habitat Conservation Areas (or the lack thereof) and including a mitigation plan as necessary prior to approval of any development related permits, including a Critical Areas Permit.

- C. Streams and Watercourses:** Streams and watercourses are classified primarily on the basis of salmonid fish use. Formerly these habitat features were classified using the Washington State Department of Natural Resources (DNR) water typing system (WAC 222-16-030), a system designed to regulate forest practices in areas adjacent to wetlands, watercourses, and water bodies. The list

below shows the original water type and the revised water type:

1. **Type 1 Water**, which has been changed to **Type S** for all waters inventoried as “shorelines of the state” under the Enumclaw Shoreline Master Program;
2. **Type 2 Water**, which has been changed to **Type F** for fish bearing streams with perennial flow;
3. **Type 3 Water**, which has been changed to **Type F**; for fish bearing streams with intermittent flow;
4. **Type 4 Water**, which has been changed to **Type Np** for streams with perennial or intermittent flow, but without direct fish use;
5. **Type 5 Water**, which has been changed to **Type Ns** for intermittent and ephemeral streams or watercourses that are not used by fish, but have enough flow energy to scour a stream channel to mineral soil;
6. **Type 5 Water**, which has been changed to **Type O** for watercourses that do not have enough flow energy to scour a stream channel to mineral soil or bedrock and that do not have fish use. This latter type is sometimes referred to as a swale or drainage swale.

A buffer, consisting of natural vegetation, shall be required along all streams as classified by the DNR water typing classification system (WAC 222-16-030). The native growth buffer shall be established on both sides of the stream or watercourse and shall extend landward from the ordinary high water of the water body. The following buffer widths are the standard buffer width requirements:

DNR Water Type S	100-foot buffer
DNR Water Type F	75-foot buffer
DNR Water Type Np	50-foot buffer
DNR Water Type Ns	25-foot buffer

Water Type O is not a DNR classification, but has been adopted into this Chapter to provide regulatory guidance for vegetated swales. The City will not impose a buffer requirement on Water Type O unless the Administrator is convinced, on the basis of available field data and personal knowledge, that a buffer is needed to protect downstream critical areas from a risk of significant adverse impact due to onsite water quality degradation.

- D. Buffer Width Averaging, Reduction, and Enlargement:** If approved by the Administrator, buffer width averaging, buffer width reduction, and buffer width enlargement will be consistent with the provisions specified in Section 19.02.090 above.

**19.2.110 Resource Lands**

- A. Mineral resource lands may only be developed in accordance with Chapter 19.28 EMC.

**19.2.120 Critical Areas Maps and Data Bases**

- A. The City shall maintain inventory maps showing the general locations of critical areas as well as a data base with supporting information. Each critical area will have its own individual map or overlay. These maps shall be available for use by public and private entities.
- B. There are maps in the current comprehensive plan that show the approximate location and extent of critical areas in the City. These maps are not intended to be used for site engineering or planning and are not a substitute for Critical Areas Identification and Delineations process required in other sections of this Chapter. Additional critical areas are presumed to exist, and are protected under all the provisions of this chapter. In the event that any of the critical area designation shown on the map conflicts with the criteria set forth in this chapter, the criteria shall control.

**Article III. Critical Area Reviews**

**19.2.130 General Requirements.**

- A. No regulated activity shall occur within a critical area or its associated buffer, without review by the Administrator and approval of a shoreline exemption, shoreline substantial development permit, shoreline conditional use permit, or shoreline variance permit.

**19.2.140 Submittal Requirements.**

- A. **Who must apply:** Any individual, company, agency, or other entity proposing to undertake a regulated activity in the City must apply for a shoreline substantial development permit or shoreline exemption (per EMC Title 15) prior to initiating any site altering activity. Some uses and development proposals may also require a shoreline conditional use permit or shoreline variance permit.
- B. **Information Requirements.** Unless the city waives one or more of the following information requirements, application for a shoreline permit or exemption on a property containing critical areas under this Chapter includes, but is not limited to, the following information:
  - 1. Name and contact information for the project proponent or Applicant;
  - 2. Address and/or legal description of the proposed project site;
  - 3. A description of the site, including the size of the proposed site;
  - 4. A description of adjacent properties, including a description of the current use(s) on those properties, a description of the vegetation and vegetation conditions on those properties, the name(s) and contact information for all adjacent property owners, and a listing of any easements that will be needed on adjacent properties or that exist on the proposed project site that grant use to entities other than the project site owner(s);
  - 5. A description of the proposed project activity;
  - 6. A Critical Areas Report that documents the ecological, aesthetic, economic, or other values of the critical areas, including a discussion of the methodology used to identify, delineate, and survey critical areas described in the report (refer to Appendix B for minimum report content requirements);
  - 7. Site plan(s) or site map(s) at a scale no smaller than one inch equals 40 feet showing the entire parcel of land owned (or a under contract to purchase) by the applicant. In addition the site plan or site map must show:
    - a. all critical area boundaries and their associated buffers identified and delineated within and in close proximity to the proposed project;
    - b. existing and proposed site topography and drainage features (i.e. ditches, streams, culverts, pipelines, etc.);
    - c. all significant trees, which includes all conifers with a 6-inch dbh or greater and all deciduous species with an 8-inch or greater dbh;
    - d. all existing structures, utilities, roadways, and other site improvements; and
    - e. the proposed stormwater management plan;
  - 8. A description of site development alternatives and an evaluation of those alternatives vis-à-vis any proposed critical area alterations. Include a rationale for not avoiding or minimizing impacts to critical areas identified within the project site;
  - 9. A mitigation plan may be submitted to the Administrator at the time the Applicant submits an application or the Administrator may allow the Applicant to defer submittal of the mitigation until after the preliminary project design has been reviewed by the Administrator. The Applicant will be required, however, to submit a Final Mitigation Plan (see Appendix C for Mitigation Plan Requirements) describing mitigation projects for all unavoidable critical area impacts before any project permits are approved by the Administrator. The Final Mitigation Plan shall include baseline information, environmental goals and objectives, a Financial Guarantee quantity worksheet to “bond” the proposed mitigation activities, detailed construction plans, performance standards, a 3 to 5 year monitoring program, and a contingency plan.
- C. **Preparation of a Critical Area Report:** A Critical Area Report (see Appendix and Appendix D) must be prepared by a Qualified Professional (Critical Areas consultant), with expertise in the critical

area of concern, as defined in this Chapter.

1. The Critical Areas Consultant will be retained by the Applicant to complete any of the following activities: critical area site analysis and evaluation, site restoration and/or enhancement, and site development plan or project design. The consultant will be selected from a list of Qualified Professionals (as defined in WAC 365-195-905(4) and Appendix D) that shall be maintained by and on file with the Administrator.
2. The Applicant may use the professional services of any Qualified Professional to assist with Critical Areas assessment and reporting whether they are or are not listed on the City maintained list. The Administrator may request a qualification statement from any Consultant providing professional services to an Applicant, particularly when Critical Areas assessments and reporting is part of a proposed land use action or development plan.

**D. Critical Area Boundary.** Critical area boundary shall be determined by the Applicant through the performance of a field investigation.

1. The Administrator, when requested by the Applicant, may waive the delineation of the boundary requirement for the Applicant and, in lieu of delineation by the Applicant, perform the delineation.
  - a. All wetland delineations will be completed in accordance with the approved wetland delineation manual and applicable regional supplements.
2. The Administrator shall consult with qualified critical areas consultant and technical experts or other experts as needed to perform the delineation.
3. The applicant may be charged for the costs incurred in accordance with the provisions of this section.
4. Where the Administrator delineates a wetland at the request of the applicant, such delineation shall be considered a final determination.
5. Where the applicant delineates the critical area boundary, the administrator shall verify the accuracy of, and may adjust, the boundary. If the applicant contests the adjusted boundary, the administrator shall, at the applicant's expense, obtain expert services to render a final delineation.

**E. Best Available Science:** A Critical Area Report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Chapter. Recommendations for buffer width averaging, buffer width reduction, and buffer impact mitigation actions must be based in Best Available Science, which includes local expertise and site specific knowledge.

**F. Additional Studies.** When an Applicant submits an application for a critical area permit the application shall indicate whether any environmentally critical area is located on the site. If the Administrator determines that sufficient environmental information to evaluate a proposal is not available, the Administrator shall notify the Applicant that special environmental studies are required.

1. Special environmental studies may include a comprehensive site inventory and analysis, a wetland study, a geotechnical study, a discussion of potential impacts from the proposed development, and specific measures designed to mitigate any potential on- or off-site adverse environmental impacts of the applicant's proposal.
2. The Administrator shall develop and maintain a detailed list of required study contents.
3. All special studies shall be completed by a firm or individual selected, in concert between the City and the Applicant, from a list Qualified Professional Critical Area Consultants that is maintained by and available from the Administrator.

#### **19.2.150 Critical Area Review**

**A.** As part of the review process, the City shall:

1. Verify the information submitted by the applicant;
2. Evaluate the available current City Critical Areas maps and data files to determine if there are identified critical areas within or in close proximity to the proposed project site. The

*EMC 19.02 - Critical Areas Ordinance - City of Enumclaw*

Administrator may require the Applicant to submit a Critical Area Reconnaissance Report (CARR) Form (see Appendix B) to assist in the determination regarding the presence of identified and regulated critical areas. The CARR form must be prepared by a Qualified Professional.

3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
  4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B.** If the proposed project is within, adjacent to, or is likely to impact a critical area, the City shall:
1. Require the Applicant to complete a field study of the project site and immediate surrounding area to the Administrator. The Applicant shall be required, at a minimum, to submit a Critical Areas Report (see Appendix B) to the Administrator. The Critical Areas Report must be prepared by a Qualified Professional;
  2. Review and evaluate the Critical Area Report;
  3. Determine whether the development proposal conforms to the purposes and performance standards of this Chapter, including the criteria in Section 19.02.160.A. and Section 19.02.160.B.

**19.2.160 Financial Guarantees**

**A. Financial Guarantees:** At the time of a shoreline permit or exemption approval the Applicant will be required to post a financial guarantee for all critical area alteration mitigation activities. The financial guarantee shall be paid prior to initiating any activities in a critical area. The financial guarantee amount will vary by project and may be determined by:

1. The Applicant securing three (3) bonafide bids from experienced landscaping contractors or qualified critical area restoration contractors to install, maintain, and monitor a mitigation plan that has been approved by the Administrator. The highest bid will determine the bond amount. The Administrator can, at the Applicant's expense, solicit an independent bid for installation, maintenance, and monitoring of the approved plan if the Administrator believes the Applicant's submittal is significantly lower than expected.
2. The Administrator can prepare, or have prepared, a standard bond quantity worksheet to determine the bond quantity.
3. The Applicant depositing a cash deposit in a joint City/Applicant interest bearing account at a local financial institution.
  - a. Interest accrued while the cash deposit is held in deposit at the financial institution will be deposited in the Applicant's interest account.
  - b. No funds will be dispersed from the cash account or the interest account unless the Applicant fails to implement the approved mitigation plan within a reasonable time period (12 months) following approval of the mitigation plan and site plans and the initiation of construction.
  - c. If the Applicant fails to perform as directed in the approved mitigation plan both the interest and cash accounts will be forfeited by the Applicant to the Administrator.
4. Financial guarantees posted for mitigation projects will be posted in two parts, a construction guarantee and a maintenance/monitoring guarantee. After the Applicant has implemented the construction and planting phases of the mitigation project and the mitigation effort is approved by the Administrator the construction portion of the Financial Guarantee will be released to the Applicant. Following the end of the 5-year maintenance and monitoring period and a review by the Administrator indicating the project has been approved the Maintenance and Monitoring Financial Guarantee will be released to the Applicant.

**Article IV. Development Standards for Critical Areas**

**19.2.170 Critical Area Development Standards.**

- A. Area of Special Flood Hazard – Development Standards.** In all areas of special flood hazard, the following standards are required:
1. Anchoring.

*EMC 19.02 - Critical Areas Ordinance - City of Enumclaw*

- a. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of structure.
  - b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over the top or frame ties to ground anchor (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
2. Construction Materials and Methods.
- a. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.
  - b. All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.
  - c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during the condition of flooding.
3. Utilities.
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the system into floodwaters.
  - c. On-site waste disposal systems shall be located to avoid impairment or contamination of systems or from systems during flooding.
4. Subdivision proposals – Area of Special Flood Hazard.
- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).
5. Review of building permits – Area of Special Flood Hazard. Where elevation data is not available either through the flood insurance study or from other authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment by the Administrator and includes the use of historical data, high water marks, photographs of past floods, etc., where available to determine flood level. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
6. Residential construction – Area of Special Flood Hazard.
- a. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
  - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Design for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - (2). The bottom of all openings shall be no higher than one foot above grade.
    - (3). Openings shall be equipped with screens, louvers or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
7. Nonresidential construction – Flood Hazard Areas. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the highest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood-proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of the buoyancy;
  - c. Be certified by a registered professional engineer or architect that the design methods of construction are in accordance with accepted standard of practice for meeting provisions of this subsection based upon their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth above;
  - d. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection B of this section;
  - e. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based upon rates that are one foot below flood-proofed level (e.g., a building flood-proofed to one foot above the base flood level will be rated as at the base flood level).
- 8. Manufactured homes – Area of Special Flood Hazard.** All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community’s FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is to or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions set forth in EMC 19.04.090(A).
- 9. Recreational Vehicles– Area of Special Flood Hazard.** Recreational vehicles are allowed to be stored on sites within special flood hazard areas if they are fully licensed and ready for highway use, on their wheels, not connected to utilities and meet other zoning requirements.
- 10. Floodways – Area of Special Flood Hazard.** Floodways area areas as designated in the section involving basis for establishing areas of special flood hazards set forth above, Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvement and other development unless certification by registered professional engineer or architect is provided demonstrating that the encroachment shall not result in increased flood levels during the occurrence of the base flood discharge.
  - b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:
    - (1) Repairs, construction or improvements to a structure which do not increase the ground floor area; and
    - (2) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:
      - (a) before the repair, reconstruction or improvement has started; or
      - (b) if the structure has been damaged, and is being restored, before damage occurred.
    - (3) Any improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which are the minimum necessary to assure safe living conditions as determined by the Administrator, or to structures identified as historical places shall not be included in the 50 percent.
  - c. If subsection A of this section is satisfied, all new construction and substantial improvement shall comply with the applicable flood hazard reduction provisions as set forth in the provisions for flood hazard reduction.
  - d. The city will control the degree of alteration of natural floodplains, wetlands, stream channels and natural protective barriers to help accommodate the storage or channeling of floodwaters, through provisions in the adopted stormwater design manual regulations.

**B. Geologically Hazardous Areas.**

**1. Erosion Hazard Areas – Development Standards.**

- a. Erosion hazard areas shall be avoided as locations for building construction, roads or utility systems, where mitigation is not feasible.
- b. Development activities or their support infrastructure shall not be allowed that would directly or indirectly worsen the erosion hazard identified in the site analysis.

- c. Land clearing, grading, and filling shall not be permitted between October 15th and April 1st.

**2. Landslide Hazard Areas - Development Standards**

- a. Documented landslide hazard areas shall be avoided as locations for building construction, roads or utility systems where mitigation is not feasible.
- b. If the degree of hazard warrants some development activity, post-construction slope stabilization and appropriately upgraded road construction specifications shall be employed to eliminate as completely as practicable any public or private exposure to landslide hazards or abnormal maintenance or repair costs.
- c. Land clearing, grading, and filling shall not be permitted between October 15th and April 1st.

**3. Seismic Hazard Areas – Development Standards.**

- a. The list below defines critical facilities that will require engineering and design elements suitable for protecting public health and safety as well as other critical areas when sited in a seismic hazard area:
  - (1) Hospitals and other medical facilities having surgery and emergency treatment areas;
  - (2) Structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be dangerous to the safety of the general public if released;
  - (3) Covered structures whose primary occupancy is public assembly, with capacity of greater than 300 persons;
  - (4) Buildings for schools through secondary or day care centers, with a capacity of greater than 250 students;
  - (5) Buildings for colleges or adult education schools, with a capacity of 500 students or greater;
  - (6) Medical facilities with 50 or more resident incapacitated patients;
  - (7) Jails and detention facilities; and
  - (8) All structures with occupancy of greater than 5,000 people.

**C. Critical Aquifer Recharge Areas – Development Standards.**

1. The site analysis will create a water quality baseline which will serve as a minimum standard that shall not be further degraded by proposed development.
2. The creation of additional impervious surfaces shall be limited to that amount described in the site analysis that will ensure adequate aquifer recharge and water quality protection.
3. Permits shall ensure that all best management practices are employed to avoid introducing pollutants into the aquifer. This includes the complete collection and disposal of storm water outside of the aquifer recharge area for all development impervious surfaces.

**D. Wetlands – Development Standards**

1. Development Standards for wetland habitat and wetland buffers are defined in Section 19.02.090, Section and Sections 19.02.130 through 19.02.180.
2. The Applicant will not initiate any habitat altering activities within a regulated wetland adjacent to a stream or river prior to having obtained approval for the proposed mitigation plan and a valid Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.
3. The Applicant will not initiate any work in an area that has been or has the potential to be designated as a Wetland or Fish and Wildlife Habitat Conservation Area without obtaining either a valid Section 404 Permit or a letter indicating the affected wetland is isolated issued by the US Army Corps of Engineers, Regulatory Branch.

**E. Fish and Wildlife Habitat Conservation Areas – Development Standards.**

1. No permit for land use activities involving the alteration of identified Fish and Wildlife Habitat Conservation Areas shall be granted by the Administrator unless mitigation of adverse effects that will ensure continuation of baseline populations for all endangered, threatened and sensitive species can be provided.
2. Development will not be allowed in Fish and Wildlife Habitat Conservation Areas without Administrator approval if listed species (those species listed on the Federal Endangered Species list and the State of Washington Priority Habitat and Species list) and their critical habitats will

*EMC 19.02 - Critical Areas Ordinance - City of Enumclaw*

suffer population declines, migration route interruption, or habitat degradation , the Administrator may approve development in Fish and Wildlife Conservation Areas if it can be demonstrated that:

- a. mitigation measures (Best Management Practices) intended to minimize or eliminate adverse affects on species and habitat are incorporated in the development plans; and
  - b. the Applicant provides valid and scientifically supportable information demonstrating that adequate regional populations will be maintained after the development activities have ceased and the site is occupied.
3. Development reviews shall include regional species occurrence and movements and will avoid creating isolated subpopulations where warranted.
  4. A grading, restoration, and erosion control plan shall be approved by the City prior to initiating any work proposed adjacent to a fish-bearing stream or buffer.
  5. Any disturbance in the buffer area shall be restored and rehabilitated to ensure erosion and water quality is not degraded from predevelopment conditions.
  6. Any disturbance in the buffer area shall be restored and rehabilitated to ensure restoration of native vegetation (trees, shrubs, and groundcover) within the Fish and Wildlife Habitat Conservation Area.
  7. The applicant will not initiate any work in a stream (below the Ordinary High Water Mark) without having a valid Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife and, if necessary, a valid Section 404 Permit issued by the US Army Corps of Engineers, Regulatory Branch.
  8. In the event that a Federal or state protected species or its associated habitat de-listed or the Federal and state policies regarding listed species and habitats are modified or removed the Administrator will decide how fish and wildlife conservation areas will be managed from a permitting perspective.

**19.20.180 Critical Areas Management Incentives**

**A. Limited density transfer.**

1. For development proposals on lands containing Category II, III or IV wetlands and any category of wetland buffers, the administrator shall determine allowable dwelling units for residential development proposals based on the formulas below.
2. The following formula for density calculations is designed to provide incentives for the preservation of wetlands and wetland buffers, flexibility in design, and consistent treatment of different types of development proposals. The formula shall apply to all properties within existing residential zones on which wetlands and wetland buffers are located.
3. The maximum number of dwelling units (DU) for a lot or parcel which contains wetlands and wetland buffers shall be equal to:

$$(Acres\ in\ Wetland\ or\ Buffer) \times (DU/Acre) \times (Density\ Credit)$$

4. The density credit figure is derived from the following table:

Percentage of Site in Buffer	Density Credit
100%	100%
90%	90%
80%	80%
70%	70%
60%	60%
50%	50%
40%	40%
30%	30%
20%	20%
10%	10%

5. The density credit can only be transferred within the development proposal site. To the extent that application of the formula may result in lot sizes less than the minimum allowed by the underlying district, they are hereby authorized; provided, that the resultant lot is no less than 50 percent of the required size. In no event shall a reduction in lot size result in lot sizes less than 7,200 square feet or result in a change in use from that allowed in the underlying zone district. Deductions of up to 50 percent for setbacks and width at building are also authorized as long as the lots standards do not conflict with the family of International Building Code requirements.
  6. The administrator shall require and approve a binding site plan, submitted by the applicant indicating lot sizes, lot configurations, building envelopes, and elevations, and structure profiles as a condition of allowing any reduction on the standards of the underlying zone. Any density credit (for wetlands only) resulting in reduction of standards for the underlying zone district shall also require a variance from the board of adjustment.
- B. Non-monetary Compensation for Voluntary Increases in Critical Habitat Set-asides:** This is a program by which the City would provide non-monetary compensation for Applicants or Landowner cooperation in establishing larger than the minimum required buffers adjacent to designated critical areas or riparian areas adjacent to aquatic habitats such as streams, ponds, or lakes.
1. An example of this program would be the Administrator compensating a land owner (whose active agricultural operation initiated prior to the adoption of any sensitive or critical areas regulations) for voluntarily creating buffers adjacent to a stream to protect the fish and wildlife habitat and protect water quality.
    - a. As an example the City could supply the materials and labor to install and maintain the fencing necessary to exclude livestock from the stream channel and its associated buffer as compensation for the voluntary establishment of buffers; or
    - b. The City could supply the materials and labor needed to install off-channel livestock watering facilities; or
    - c. The City would supply the farmer with a quantity of hay equivalent to the amount of hay lost due to creating the buffer set-aside.
  2. To fund this type of compensation program the City the City is hereby authorized to:
    - a. levy a conservation fee on all dairy and meat products sold at retail outlets located within the limits of the City; or
    - b. The City could negotiate a perpetual grant from the Salmon Recovery Fund to fund the projects and use a non-profit entity dedicated to salmon habitat restoration (i.e. Mid-sound Fisheries Enhancement Group) to implement the program.
- C. Open Space, Forestry, and Agricultural Current Use Assessment Programs:** Under established programs authorized by State law (RCW 83.34 and related sections) the Administrator could encourage an Applicant or Applicants as property owners to seek Property Tax Relief as compensation for establishing minimum required buffers adjacent to critical areas when the are exempt under the current EMC 19.02.
1. The Administrator is hereby authorized to develop a tax relief information packet and provide said packet to land owners in the City of Enumclaw and immediately surrounding areas.
  2. The Administrator would have the authority to prepare documents indicating the designation of property currently designated as Open Space, Forestry, Agricultural to Critical Area Buffer, a designation that should lower tax liability on the dedicated lands.
  3. The Administrator would also be authorized to prepare property tax relief requests for properties that an Applicant or Applicants designated as fish and wildlife habitat conservation areas or critical area buffers.

#### 19.2.190 Critical area tracts and easements.

- A. Critical Area Management Tracts.** As a condition of any permit, the City may require the permit holder to create a separate critical area management tract containing the areas determined to be critical areas. Critical area management tracts are legally created tracts containing critical areas, and compensation areas that shall remain undeveloped in perpetuity, except for allowed activities pursuant to this chapter. Critical area management tracts are an integral part of the lot in which they are created,

are not intended for sale, lease or transfer, and shall be included in the area of the parent lot for purposes of subdivision method and minimum lot size.

- B. Protection of Critical Area Management Tracts.** The City may require, as a condition of any permit, that the critical area management tracts be protected and maintained in perpetuity by a critical area management easement which must be recorded. In addition, an entity that will be responsible for the maintenance and protection of the critical area tract must be designated as part of the permit.
- C. Marking during Construction.** The location of the outer extent of the critical area and the areas to be disturbed pursuant to an approved permit shall be marked in the field to prevent unnecessary disturbance by individuals and equipment during the development or construction of the permitted activity. Such field markings shall be approved by the city prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
- D. Permanent Marking.** The city may require the boundary of a critical area management tract be permanently identified by signs, the location, size, and wording of which must be approved by the administrator. These signs should be worded as follows: “Protection of this natural area is in your care. Alteration or disturbance is prohibited by law. Please call the city community development department for more information.”
- E. Additional Requirements.** Site specific criteria shall be developed to determine if additional conditions are warranted to insure the preservation and protection of critical areas are needed. These conditions include, but are not limited to, fencing, educational signage, and other passive recreational amenities.

#### **19.2.200 Deed restrictions and Setbacks.**

- A. Deed Restrictions.** The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of all lots containing critical area management tracts created as a condition of this permit. Such deed restriction(s) shall prohibit in perpetuity the development, alteration, or disturbance of vegetation within the critical area management tract except for allowed activities and regulated activities allowed by a permit issued pursuant to this chapter.
- B. Setbacks.** Building setbacks must be recorded on the property title for all critical areas identified and delineated on the project site and in close proximity of the project site. As it pertains to the provisions of this Chapter a building setback is an additional open area between the delineated edge of an identified critical area and a permanent structure or improvement.
  - 1.** Major structures and improvements shall be set back 25 feet from any landslide critical area tract, and 15 feet from any flood hazard zone, or erosion hazard critical area tract. Major structures and improvements shall be set back a minimum of 15 feet from the outer edge of any wetland or stream buffer
  - 2.** The Administrator may increase the setback to protect the proposal or adjacent properties from adverse impacts and may decrease the setback if the reduction does not result in significant adverse impacts to the proposal or adjacent properties. The setback can be decreased to no less than 10 feet.

### **Article V. Mitigation of Critical Area Impacts**

#### **19.2.210 Mitigation Sequencing – Decision Criteria.**

- A. Eligibility for Reasonable Use Exception Application. Reasonable use exceptions do not apply in shoreline jurisdiction.**
- B. Compensatory Mitigation – Decision Criteria:** Compensatory mitigation for alterations to critical areas, particularly wetlands and fish and wildlife habitat conservations areas, shall, in a reasonable period of time, achieve equivalent or greater biologic function within the critical area altered or in a viable alternative mitigation area. Compensatory mitigation plans shall be consistent with Best Available Science (BAS), watershed approach to mitigating siting, as well as local knowledge and expertise.
  - 1.** Mitigation of critical area impacts associated with a proposed land use activity shall be required in the following order of preference:
    - a. Impact Avoidance:** Avoiding the impact altogether by not taking a certain action or parts of an action. When it has been demonstrated, to the satisfaction of the Administrator, that impact

avoidance is neither practical nor prudent, the Administrator shall approve one of the following, in descending order of preference;

- b. Impact Minimization:** 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.
  - c. Impact Rectification:** Rectifying the impact by repairing, rehabilitating, or restoring the affected environment. This may include off-site mitigation areas and the restoration of previously impacted habitats in other critical areas, provided that a watershed approach to mitigating siting (see Ecology publication 09-06-032) is required; .
  - d. Impact Reduction over Time:** Reducing or eliminating the impact over time by preservation and maintenance operations.
  - e. Impact Compensation:** Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. This may include mitigation alternatives such as wetland mitigation banking, fee-in-lieu, credit-debit method (reference Ecology Publication #10-06-011) and other creative approaches to mitigation that will result in a net increase in critical area function and value.
- C. Minimizing wetlands impacts – Decision Criteria.** After it has been determined by the City Council, based on information presented to the council by the Administrator and the Applicant, that the loss of critical areas is necessary and unavoidable or that all reasonable economic use has been denied,
- 1. The applicant shall implement project planning and implementation measures intended to minimize critical area impacts; and
  - 2. Efforts to minimize critical area impacts shall include, but are not limited to:
    - a. Limiting the degree or magnitude of the regulated activity;
    - b. Limiting the implementation of the regulated activity;
    - c. Using appropriate and best available technology;
    - d. Taking affirmative steps to avoid or reduce impacts;
    - e. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
    - f. Involving resource agencies early in site planning; and
    - g. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities.

**19.2.220 Mitigation plans.**

- A.** All wetland enhancement, restoration, or creation projects required pursuant to this Chapter either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared by a Qualified Professional and approved by the Administrator.
  - 1. Preparation of the mitigation report is an expense borne by applicant and/or violator.
  - 2. The minimum content of a critical area mitigation plan is outlined in Appendix C of this Chapter.
  - 3. Unless the Administrator, in consultation with a Qualified Professional, determines, based on the size and nature of the development proposal, the nature of the impacted wetland, and the degree of cumulative impacts on the wetland from other development proposals, that the scope and specific requirements of the mitigation plan may be reduced from what is listed in Appendix B, the mitigation plan shall include information in response to every item listed.
- B.** The applicant or violator shall receive written approval of the mitigation plan by the city prior to commencement of any wetland restoration, creation or enhancement activity.
- C.** Permit Conditions. Any compensation project prepared pursuant to this section and approved by the city shall become part of the application for the permit.
- D.** City personnel reviewing the mitigation plan and the Applicant’s consultants or staff preparing the

mitigation plan are encouraged to consult with and solicit comments of any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes wetlands compensation.

- E. The mitigation plan may be reviewed by other agency personnel for compliance with other State and Federal regulations. The Applicant is encouraged to provide sufficient, clear, and concise information regarding the proposed mitigation plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal in a timely manner. Approval of a proposed mitigation plan by the City does not mean that the plan has been approved by other reviewing agencies.
- F. Compensatory wetland mitigation is not required for regulated activities:
  - 1. For which a permit has been obtained for critical area impacts that will only occur in the outer 50% of a buffer, or expanded buffer, and which have no adverse impacts to regulated wetlands or no significant reduction in buffer function and value; or
- G. Allowed activities pursuant to EMC 19.02.020.C provided such activities utilize best management practices to protect the functions and values of regulated wetlands.

### **19.2.230 – Critical Area Impact Mitigation**

- A. As a condition of any permit allowing alteration of critical areas, or as an enforcement action pursuant to EMC 15.12.030, the City shall require that the applicant engage in the restoration, creation or enhancement of critical areas and their buffers in order to offset the impacts resulting from the applicant's actions.
- B. The applicant shall develop a plan (see Appendix C) that provides for land acquisition (if necessary), construction, maintenance and monitoring of replacement wetlands that provides equal or greater functions and values as the original wetlands.
- C. The overall goal of any critical areas mitigation project designed and implemented to compensate for wetland or fish and wildlife habitat conservation area impacts shall be no net loss of habitat (wetland, stream, riparian area, buffer, pond, etc.) functions and values and to strive for a net resource gain in habitat functions and values over present conditions. Compensation should be completed, whenever it is feasible, prior to any critical area alteration.
- D. **Mitigation for Lost or Affected Functions.** Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when:
  - 1. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State Watershed Assessment Plan or similar protocol; or
  - 2. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
- E. **Preference of Mitigation Actions.** Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
  - 1. Restoring wetlands on upland sites that were formerly wetlands.
  - 2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native introduced species.
    - a. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
  - 3. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area

meeting appropriate ratio requirements.

- F. Type and Location of Mitigation.** Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be:
1. On-site compensation should be provided except where the applicant can demonstrate that:
    - a. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be significantly adversely impacted by the on-site loss; and
    - b. On-site compensation is not scientifically feasible due to problems with hydrology, soils, waves, or other factors; or
    - c. Compensation is not practical due to potentially adverse impact from surrounding land uses; or
    - d. Existing functional values at the site of the proposed restoration are significantly greater than lost wetland functional values; or
    - e. Local or regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site.
  2. Off-site compensation shall occur within the same watershed as the wetland loss occurred; provided, that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative and local or regional environmental goals are furthered by this action.
  3. Either in-kind and on-site, or in-kind and within the same stream reach, sub-basin, or drift cell. Mitigation actions shall be conducted within the same sub-drainage basin and on the site as the alteration except when the all of the following apply:
    - a. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);
    - b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
    - c. Off-site locations shall be in the same sub-drainage basin unless:
      - (1) Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or
      - (2) Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.
  4. In selecting compensation sites, applicants shall pursue mitigation sites in the following order of preference:
    - a. Degraded wetland sites;
    - b. Upland sites which were formerly wetlands;
    - c. Upland sites generally having bare ground or vegetative cover consisting primarily of exotic introduced species, weeds, or emergent vegetation;
    - d. Other disturbed upland. (Ord. 1960 § 3, 1998).
- G. Mitigation Timing.** It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
1. The Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or

degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the City.

- H. Mitigation Ratios:** Mitigation ratios refer to the amount of area required to mitigate a wetland impact or the mitigation effort required to mitigate wetland function and value lost in a smaller area than was impacted by a land use activity.
  - 1. **Acreage Replacement Ratios.** The ratios listed in Table 2c shall apply.
  - 2. **Buffer Mitigation Ratios.** Impacts to buffers shall be mitigated at 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
- I. Monitoring.** The mitigation plan shall include provisions for the compensatory project to be monitored for a period of at least five years or a period necessary to establish that performance standards have been met. For forested and scrub-shrub wetlands, the monitoring period shall be 10 years.

**Table 2C: Wetland Mitigation Ratios**

<b>Category and Type of Wetland</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>	<b>Preservation</b>
Category I: Bog, Natural Heritage site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

**19.2.240 Alternative Mitigation Strategies**

- A. Wetland Mitigation Banking and In-Lieu Fee (ILF) Mitigation Opportunities**
  - 1. Credits from a wetland mitigation bank or federally certified In-Lieu Fee (ILF) program may be approved for use as compensation for unavoidable impacts to wetlands, fish and wildlife conservation areas, and other aquatic resources when:
    - a. The bank is certified by WDOE under WAC 173-700 or by the federally certified ILF program is certified by the US Army corps of Engineers per Federal regulations (33 CFR Part 332 and 40 CFR Part 230, Subpart J);
    - b. The Administrator determines that the wetland mitigation bank or federally certified ILF program provides appropriate compensation for wetland, fish and wildlife conservation areas, or other aquatic resource impacts associated with the Applicants project; and
    - c. The proposed use of credits is consistent with the terms and conditions of the bank or ILF program’s certification.
  - 2. Replacement ratios for projects using bank or ILF program credits shall be consistent with replacement ratios specified in the bank or program’s certification.
  - 3. Credits from a certified wetland mitigation bank or ILF program may be used to compensate for impacts located within the service area specified in the bank or ILF program’s certification.
- B. Cooperative restoration, creation or enhancement projects.** The City may encourage, facilitate, and approve cooperative projects wherein a single applicant, group of applicants, or other entity with demonstrated capability may undertake a compensatory mitigation project with funding from each of the Applicants or another source under the following circumstances:

*EMC 19.02 - Critical Areas Ordinance - City of Enumclaw*

1. Restoration, creation, or enhancement at an individual location (site) may be scientifically or economically impractical, difficult, or impossible; or
2. Creation of one or several larger wetlands, riparian areas, or buffer area in an off-site location may be preferable to the mitigation of many small wetlands in their existing onsite locations, or.
3. Restoration/relocation of a previously degraded stream channel in conjunction with the creation of floodplain wetlands, riparian corridors, and enhanced buffers may have a greater benefit to fish and wildlife production in the watershed than smaller individual mitigation projects located within current or future project sites; and
4. The Applicant or Applicants proposing cooperative compensation projects shall:
  - a. Submit a Cooperative Project mitigation plan prepared by a Qualified Professional that contains the information required listed in Appendix B;
  - b. Demonstrate compliance with the provisions of this Chapter and all standards, rules, requirements, and regulations enforced by other resource management agencies with jurisdictional interest in the proposed project;
  - c. Demonstrate, in the form of contractual agreements or verifiable funding sources (i.e. an escrow account), that the organizational and fiscal capability to act cooperatively are in place and perpetual; and
  - d. Demonstrate that long term management capability can and will be provided through the entire life of the project; and
  - e. Obtain all state and federal permits and approvals necessary for the compensation project prior to making formal application to the City.
  - f. **NOTE:** This is an opportunity for individual land owners contemplating or anticipating future development opportunities to occur on the lands collectively to form a legal entity for the purpose of eliminating small, low function and value Category III and Category IV wetlands located on their individual properties and cooperatively mitigating the individual impacts in a larger offsite location in advance of the actual critical area impacts. The same concept can be used to restore and/or relocate stream habitat or to connect isolated areas of wildlife habitat.

**19.2.250 Mitigation Area Performance Standards.**

- A. Compensatory mitigation shall follow an approved mitigation plan pursuant to EMC 19.02.140(B)(9) and shall meet the following minimum performance standards:
  1. Given the uncertainties in scientific knowledge and the need for expertise and monitoring, critical area compensatory mitigation projects may be permitted only when the City finds that the mitigation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces.
  2. Additionally, Applicant shall:
    - a) Demonstrate sufficient scientific expertise (including current knowledge of best available science), supervisory capability, and financial resources to carry out the proposed mitigation project;
    - b) Demonstrate the capability to adequately monitor the site and to maintain (make corrections) the mitigation area during the monitoring period so the mitigation project does not fail to meet the environmental goals and performance standards defined in the approved mitigation plan ; and
    - c) Protect and manage, or provide for the protection and management, of the mitigation area to avoid future development related impacts or degradation within the mitigation area and to provide for long term persistence of the compensation area.
  3. Wetland functions and values shall be calculated using the best professional judgment of a Qualified Professional using the best available techniques.

**APPENDIX A: Wetland Rating Criteria**

Different types of wetlands are separated from one another on the basis of Wetland Class and Wetland Category. The former is a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the “watershed”. The latter is a categorization system used to regulate land uses adjacent to wetlands.

- A. **Wetland Class:** Wetland class is a science based classification system based on a U.S. Fish and Wildlife Service publication titled *Classification of Wetlands and Deepwater Habitats of the United States* that was edited by Lewis M. Cowardin et al and published in December 1979. Cowardin divides wetlands into five systems (Marine, Estuarine, Riverine, Lacustrine, and Palustrine), eight subsystems (Subtidal, Intertidal, Tidal, Lower Perennial, Upper Perennial, Intermittent, Limnetic, and Littoral), ten classes, and numerous modifiers. A combination of the system name, subsystem, name, class, and a modifier forms a code that identifies the wetland class.

WDOE expanded the term wetland class by incorporating use of the HGM (Hydrogeomorphic Method) classification into the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-025). The HGM is based on the “landscape” location of a wetland or portion of a wetland. The HGM classes are Depressional, Riverine, Lake-fringe, Slope, Flats, and Freshwater Tidal.

- B. **Wetland Category:** In the City, Wetland Category is used to regulate activities within and adjacent to wetland and in determining the width of the wetland buffer. The wetland category is determined after a wetland has been identified and delineated. Wetland Category is determined using the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 14-06-029 or as hereafter revised and approved by Ecology).

The WDOE document contains the definitions and scoring methods used for determining if the wetland rating criteria outlined in Appendix A of this Chapter are met. Note that streams and lakes are not rated as wetlands, but rather are classified and rated as Fish and Wildlife Conservation Areas (EMC 19.02.100).

- C. **Wetland Rating.** Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the 2014 Wetland Rating System (Ecology Publication #14-06-029), or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

1. Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than one acre; (5) relatively undisturbed wetlands in coastal lagoons that are larger than 1/10 acre; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; and (4) provide a high level of functions (23 points or more, out of 27).
2. Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).
3. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from

other natural resources in the landscape than Category II wetlands.

Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

### **APPENDIX B: Critical Area Report Content**

**NOTE:** The information items listed below represent the minimum information requirements to be included in a Critical Area Report (refer also to Appendix E). Further, if a critical area report is required by the Administrator in accordance with (EMC Chapter 19.02 - Section 19.02.130, Section 19.02.130, and Appendix E), the applicant shall submit a critical area report prepared by a qualified professional as defined in Appendix D.

1. A description of the vegetative cover of the critical area and adjacent area including dominant species;
2. A site plan for the proposed activity at a scale no smaller than one inch equals 40 feet showing the location, width, depth and length of all existing and proposed structures, roads, sewage treatment, and installations within and adjacent to critical areas;
3. The exact sites and specifications for all regulated activities including the amounts and methods;
4. Elevations of the site and adjacent lands within the critical areas at contour intervals of no greater than two feet;
5. Typical cross-section views of the critical area to scale;
6. The purposes of the project and an explanation why the proposed activity cannot be located at other sites including an explanation of how the proposed activity is dependent upon critical areas;
7. A study of flood, erosion, or other hazards at the site and the effect of any protective measures that might be taken to reduce such hazards;
8. A Critical Areas Report that documents the ecological, aesthetic, economic, or other values of the critical areas, including a discussion of the methodology used to identify, delineate, and survey critical areas described in the report (refer to Appendix B);
9. A description of site development alternatives and an evaluation of those alternatives vis-à-vis any proposed critical area alterations. Include a rationale for not avoiding or minimizing impacts to critical areas identified within the project site;
10. A mitigation plan may be submitted to the Administrator at the time the Applicant submits a Critical Areas Permit (or a Type III through Type V permit application) or the applicant can defer submittal of the mitigation until after the preliminary project design has been reviewed by the Administrator. The Applicant will be required, however, to submit a Final Mitigation Plan describing mitigation projects for all unavoidable critical area impacts before any project permits are approved by the Administrator. The Final Mitigation Plan shall include baseline information, environmental goals and objectives, a Financial Guarantee quantity worksheet to bond the proposed mitigation activities, detailed construction plans, performance standards, a 3 to 5 year monitoring program, and a contingency plan.

### **APPENDIX C: Mitigation Plan Requirements**

**Mitigation Plan Requirements.** When mitigation is required, the applicant shall submit, for approval by the Administrator, a mitigation plan as part of the Critical Area Report (unless a deferral is granted by the Administrator per Section 19.02.140.B.9). The mitigation plan shall include:

- A. Baseline Information. A written assessment and accompanying maps drawn to an appropriate scale of the:
  - 1 Impacted wetland including, at a minimum, wetland delineation; existing wetland acreage;

vegetative, faunal, and hydrologic characteristics; soil and substrate conditions; topographic elevations; and

2. Impacted wetland functions and values shall be described using the system approved by the Administrator;
3. Compensation site, if different from the impacted wetland site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions; topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.

**B. Environmental Goals and Objectives.** The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and 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 goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
2. A review of the best available science 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
3. An analysis of the likelihood of success of the compensation project duplicating the original wetland shall be provided based on the experiences of comparable projects, if any.
4. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as surface and ground water supply and flow patterns, dynamics of the wetland ecosystem, sediment or pollutant influx and/or erosion, periodic flooding and drought, etc., presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any..

**C. Performance Standards.** 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 Chapter have been met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

**D. Detailed Construction Plans.** The mitigation plan submitted to the Administrator for review and approval shall include written specifications and descriptions of the mitigation proposed, such as:

1. The proposed construction sequence, timing, and duration;
2. Grading and excavation details;
3. Erosion and sediment control features needed for wetland construction and long term survival;
4. A planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; planting instructions, and where appropriate, measures to protect plants from predation;
5. Specification of substrate stockpiling techniques and soil augmentation instructions;
6. Specifications for supplemental irrigation systems and a description of conditions that warrant supplemental irrigation;
7. Descriptions of water control and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc.and
8. Measures required for protecting and maintaining plants until they are established, including staking of tree species for a period of 5 years.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps prepared by a PLS (Professional Licensed Surveyor) licensed in the State of Washington showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s).

- E. **Monitoring Program.** A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to, one or more of the following:
1. Establishing vegetation plots to track changes in plant species composition and density over time;
  2. Using photo stations to evaluate vegetation community response;
  3. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
  4. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
  5. Measuring sedimentation rates, if applicable; and
  6. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.

A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. The plan will identify the Applicant's responsibility for completing an "as-built" survey of the mitigation site after the planting has been completed. A monitoring report documenting milestones, successes, problems, maintenance activities, and contingency actions of the compensation project shall be submitted to the Administrator annually, at a minimum, no later than November 15<sup>th</sup> each year. The first years mitigation monitoring report will include a copy of the "as-built" survey.

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 three (3) to five (5) years, with 3 to 5 years being authorized by the Administrator only when there is overwhelming evidence that the environmental goals and objectives of the mitigation site have been achieved.

- F. **Contingency Plan.** The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
- G. **Demonstration of Competence.** A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects.
- H. **Financial Guarantees.** The mitigation plan shall include financial guarantees, as determined by the Administrator, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Section 19.02.180.B.

#### **APPENDIX D: Definitions**

The definitions provided in this Appendix apply to the critical area regulations in Chapter EMC 19.02.

**Agricultural drainage:** Any stream, ditch, tile system, pipe or culvert primarily used to drain fields for horticultural or livestock activities.

**Agricultural Land:** Any land used primarily used for cultivation, farming, horticultural or livestock activities, consistent with RCW 84.33.100 thru 84.33.140.

**Alteration:** Any human activity that results or is likely to result in an impact upon the existing condition of a critical area or its buffer. "Alteration" includes, but is not limited to, grading, filling, dredging, channelizing,

applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel, modifying topography for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existing vegetation, hydrology, fish or wildlife or their habitats. "Alteration" does not include passive recreation such as walking, fishing or any other similar activities.

**Applicant:** A property owner, a public agency or a public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement under RCW 8.08.040, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

**Aquatic area:** Any non-wetland water feature including all shorelines of the state, rivers, streams, marine waters, inland bodies of open water including lakes and ponds, reservoirs and conveyance systems and impoundments of these features if any portion of the feature is formed from a stream or wetland and if any stream or wetland contributing flows is not created solely as a consequence of stormwater pond construction. "Aquatic area" does not include water features that are entirely artificially collected or conveyed storm or wastewater systems or entirely artificial channels, ponds, pools or other similar constructed water features.

**Bank stabilization:** An action taken to minimize or avoid the erosion of materials from the banks of rivers and streams.

**Base Flood:** For purposes of development proposals in a flood hazard area, the 100 year flood event.

**Basement:** For purposes of development proposals in a flood hazard area, any area of a building where the floor subgrade is below ground level on all sides.

**Best management practice:** A schedule of activities, prohibitions of practices, physical structures, maintenance procedures and other management practices undertaken to reduce pollution or to provide habitat protection or maintenance.

**Bioengineering:** The use of vegetation and other natural materials such as soil, wood and rock to stabilize soil, typically against slides and stream flow erosion. When natural materials alone do not possess the needed strength to resist hydraulic and gravitational forces, "bioengineering" may consist of the use of natural materials integrated with human-made fabrics and connecting materials to create a complex matrix that joins with in-place native materials to provide erosion control.

**Buffer:** A natural, preferably undisturbed area, contiguous to a critical area; an area designated to separate and protect a critical area from potential impacts associated adjacent land use activities; an area of natural or native growth required to support the functions and stability of a critical area.

**Channel:** A feature that contains and was formed by periodically or continuously flowing water confined by banks.

**Channel edge:** The outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

**Channel migration zone:** Those areas within the lateral extent of likely stream channel movement that are subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion and shifts in the location of stream channels, as shown on Enumclaw's Channel Migration Zone maps. "Channel migration zone" means the corridor that includes the present channel, the severe channel migration hazard area and the moderate channel migration hazard area. "Channel migration zone" does not include areas that lie behind an arterial road, a public road serving as a sole access route, a state or federal highway or a railroad. "Channel migration zone" may exclude areas that lie behind a lawfully established flood protection facility that is likely to be maintained by existing programs for public maintenance consistent with designation and classification

criteria specified by public rule. When a natural geologic feature affects channel migration, the channel migration zone width will consider such natural constraints.

**Clearing:** Cutting, killing, grubbing or removing vegetation or other organic plant material by physical, mechanical, chemical or any other similar means. For the purpose of this definition of "clearing," "cutting" means the severing of the main trunk or stem of woody vegetation at any point.

**Critical Aquifer Recharge Area:** An area designated on the critical aquifer recharge area map adopted by EMC 19.02. that has a high susceptibility to ground water contamination or an area of medium susceptibility to ground water contamination that is located within a sole source aquifer or within an area approved in accordance with chapter 246-290 WAC as a wellhead protection area for a municipal or district drinking water system, or an area over a sole source aquifer for a private potable water well in compliance with Washington State Department of Ecology (WDOE) and Public Health standards. Susceptibility to ground water contamination occurs where there is a combination of permeable soils, permeable subsurface geology and ground water close to the ground surface.

**Critical area:** Any area that is subject to natural hazards or a land feature that supports unique, fragile or valuable natural resources including fish, wildlife or other organisms or their habitats or such resources that carry, hold or purify water in their natural state. "Critical areas" includes the following areas:

- A. Frequently flooded areas,
- B. Geologically hazardous (including mine hazard areas, erosion hazard areas, landslide hazard areas; steep slope hazard areas; seismic areas, and volcanic hazard areas),
- C. Critical aquifer recharge areas,
- D. Wetlands,
- E. Fish and Wildlife Habitat Conservation Areas (including streams, rivers, ponds, lakes, estuaries, other aquatic areas, large concentrations of forested habitat within urban areas); and
- F. Buffers associated with those critical areas.

**Ditch:** An artificial open channel used or constructed for the purpose of conveying water.

**Drainage basin:** A drainage area that drains to the Green River or White River or other drainage area that drains directly to Puget Sound.

**Drainage facility:** A feature, constructed or engineered for the primary purpose of providing drainage, that collects, conveys, stores or treats surface water. A drainage facility may include, but is not limited to, a stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility and erosion and sediment control facility.

**Drainage subbasin:** A drainage area identified as a drainage subbasin in a City approved basin plan or, if not identified, a drainage area that drains to a body of water that is named and mapped and contained within a drainage basin.

**Emergency:** An occurrence during which there is imminent danger to the public health, safety and welfare, or that poses an imminent risk of property damage or personal injury or death as a result of a natural or human-made catastrophe.

**Engineer, civil, geotechnical and structural:** Shall mean the following:

- A. Civil engineer: an engineer who is licensed as a professional engineer in the branch of civil engineering by the state of Washington;
- B. Geotechnical engineer: an engineer who is licensed as a professional engineer by the state of Washington and who has at least four years of relevant professional employment; and
- C. Structural engineer: an engineer who is licensed as a professional engineer in the branch of structural engineering by the state of Washington.

**Enhancement:** For the purposes of critical area regulation, an action that improves the processes, structure and functions of ecosystems and habitats associated with critical areas or their buffers.

**Erosion:** The wearing away of the ground surface as the result of the movement of wind, water or ice.

**Erosion hazard area:** An area underlain by soils that is subject to severe erosion when disturbed. These soils include, but are not limited to, those classified as having a severe to very severe erosion hazard according to the United States Department of Agriculture Soil Conservation Service, the 1973 King County Soils Survey or any subsequent revisions or addition by or to these sources such as any occurrence of River Wash ("Rh") and any of the following when the soils occur on slopes inclined at fifteen percent or more:

- A. Alderwood gravely sandy loam ("AgD");
- B. Alderwood and Kitsap soils ("AkF");
- C. Beausite gravely sandy loam ("BeD" and "BeF");
- D. Kitsap silt loam ("KpD");
- E. Ovall gravely loam ("OvD" and "OvF");
- F. Ragnar fine sandy loam ("RaD"); and
- G. Ragnar-Indianola Association ("RdE").

**Federal Emergency Management Agency:** The independent federal agency that, among other responsibilities, oversees the administration of the National Flood Insurance Program.

**Fish and wildlife habitat conservation areas:** areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species.

- a) *Habitats of local importance* designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities.
- b) *Fish and wildlife habitat conservation areas* does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company, unless the following are present:
  - 1. Used by salmonids; or
  - 2. Used to convey a stream that occurred naturally before construction of the artificial channel.

**Flood fringe,:** That portion of the floodplain outside of the zero-rise floodway.

**Area of Special Flood Hazard:** the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

**Flood Insurance Rate Map (FIRM):** the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. .

**Floodway:** The area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include 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.

**Footprint:** The area encompassed by the foundation of a structure including building overhangs if the overhangs do not extend more than eighteen inches beyond the foundation and excluding uncovered decks.

**Forest practice:** Any forest practice as defined in RCW 79.06.020.

**Geologist:** See definition of "Professional, Qualified".

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

**Grade:** Grade: the elevation of the ground surface. "Existing grade," "finish grade" and "rough grade" are defined as follows:

- A. "Existing grade" means the grade before grading;
- B. "Finish grade" means the final grade of the site that conforms to the approved plan as required under EMC 19.01.090; and
- C. "Rough grade" means the grade that approximately conforms to the approved plan as required under EMC 19.01.090.

**Groundcover:** Competitive living plant species normally growing up to a maximum of 24 inches in height.

**Habitat:** The locality, site and particular type of environment occupied by an organism at any stage in its life cycle.

**Impacts:** "Impacts" means the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in WAC 197-11-444.

**Impervious surface:** A non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle at natural infiltration rates including, but not limited to, roofs, swimming pools and areas that are paved, graveled or made of packed or oiled earthen materials such as roads, walkways or parking areas. "Impervious surface" does not include landscaping and surface water flow control and water quality treatment facilities.

**Infiltration Rate:** The rate of transmission of water through soil, measured inches per hour, or similar measurement unit.

**Instream structure:** Anything placed or constructed below the ordinary high water mark, including, but not limited to, weirs, culverts, fill and natural materials and excluding dikes, levees, revetments and other bank stabilization facilities.

**Invasive vegetation:** A plant species listed as obnoxious or noxious weeds on a noxious weed and/or invasive plant list adopted by King County, by the State of Washington, or by the Federal Government.

**Landslide hazard area:** An area subject to severe risk of landslide, such as:

- A. An area with a combination of:
  - 1. Slopes steeper than fifteen percent of inclination;
  - 2. Impermeable soils, such as silt and clay, frequently interbedded with granular soils, such as sand and gravel; and
  - 3. Springs or ground water seepage;
- B. An area that has shown movement during the Holocene epoch, which is from ten thousand years ago to the present, or that is underlain by mass wastage debris from that epoch;
- C. An area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action;
- D. An area that shows evidence of or is at risk from snow avalanches; or
- E. An area located on an alluvial fan, presently or potentially subject to inundation by debris flows or deposition of stream-transported sediments.

**Lowest Floor:** the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Maintenance:** The usual acts to prevent a decline, lapse or cessation from a lawfully established condition without any expansion of or significant change from that originally established condition. Activities within landscaped areas within areas subject to native vegetation retention requirements may be considered "maintenance" only if they maintain or enhance the canopy and understory cover. "Maintenance" includes repair work but does not include replacement work. When maintenance is conducted specifically in accordance with the Regional Road Maintenance Endangered Species Act Program Guidelines, the definition of "maintenance" in the glossary of those guidelines supersedes the definition of "maintenance" in this section.

**Mitigation:** An action taken to compensate for adverse impacts to the environment resulting from a development activity or alteration. (*see compensatory mitigation in Article V, Section 19.02.230 B*)

**Mitigation bank:** A property that has been protected in perpetuity and approved by appropriate county, state and federal agencies expressly for the purpose of providing compensatory mitigation in advance of authorized impacts through any combination of restoration, creation or enhancement of wetlands and, in exceptional circumstances, preservation of adjacent wetlands and wetland buffers or protection of other aquatic or wildlife resources.

**Monitoring:** Active management, reporting, measurement, and checking the progress of site restoration, enhancement, or rehabilitation efforts over a period of time; generally the time period is established by the code.

**Mulch:** Organic material used to cover ground to retain moisture and control weeds.

**Native Growth Protection Area (NGPA):** An area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including but not limited to, controlling surface water runoff, preventing or minimizing surface soil erosion, maintaining slope stability, buffering critical areas from potential impacts associated with adjacent land use activities, and protecting/preserving wildlife habitat. Typically the term NGPA is synonymous with the term buffer or buffer zone.

**Native vegetation:** Plant species indigenous to the Puget Sound region that reasonably could be expected to naturally occur on the site.

**Net buildable area:** The "site area" less the following areas:

- A. Areas within a project site that are required to be dedicated for public rights-of-way in excess of sixty feet in width;
- B. Critical areas and their buffers to the extent they are required by EMC 19.02 to remain undeveloped;
- C. Areas required for storm water control facilities other than facilities that are completely underground, including, but not limited to, retention or detention ponds, biofiltration swales and setbacks from such ponds and swales;
- D. Areas required to be dedicated or reserved as on site recreation areas;
- E. Regional utility corridors; and
- F. Other areas, excluding setbacks, required to remain undeveloped.

**Noxious weed:** A plant species that is typically non-native, invasive, highly destructive, competitive or difficult to control by cultural or chemical practices, limited to any plant species listed on the state noxious weed list in chapter 16-750 WAC, regardless of the list's regional designation or classification of the species. Noxious weeds may also possess characteristics that gain cause distress or even death on animals that consume the plants.

**Ordinary high water mark:** The mark found by examining the bed and banks of a stream, lake, pond water and ascertaining where the presence and action of waters are so common and long maintained in ordinary years as to mark upon the soil a vegetative character distinct from that of the abutting upland. In an area where the ordinary high water mark cannot be found, the line of mean high water in areas adjoining freshwater is the "ordinary high water mark." In an area where neither can be found, the top of the channel bank is the "ordinary high water mark." In braided channels and alluvial fans, the ordinary high water mark or line of mean high water include the entire water or stream feature.

**Professional, Qualified:** "Qualified Professional" means a person with training and experience in the scientific discipline, and who is a qualified scientific expert with expertise in streams, wetlands or lakes subject matter in accordance with WAC 365-195-905(4). A qualified professional must have obtained a Bachelor of Science degree in hydrology, soil science, botany, ecology, or related field from an accredited college or university or who has equivalent educational training and professional experience related to the subject of habitat or species. Also includes fluvial morphologist if stream relocation is involved. Geologists are included as those professionals who hold active license from the state of Washington Geology Board. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

**Public road right-of-way structure:** The existing, maintained, improved road right-of-way or railroad prism and the roadway drainage features including ditches and the associated surface water conveyance system, flow control and water quality treatment facilities and other structures that are ancillary to those facilities including catch-basins, access holes and culverts.

**Reasonable Use Exception.** Discretionary review process to determine the minimum permitted use possible of a site when the site is 65% to 100% covered by critical areas and associated buffers, and the critical area designation precludes the zoned allowable use of the parcel.

**Reclamation:** The final grading and restoration of a site to reestablish the vegetative cover, soil stability and surface water conditions to accommodate and sustain all permitted uses of the site and to prevent and mitigate future environmental degradation.

**Regional road maintenance guidelines:** The National Marine Fisheries Service-published Regional Road Maintenance Endangered Species Act Program Guidelines.

**Repair:** To fix or restore to sound condition after damage. "Repair" does not include replacement of structures or systems.

**Replace:** To take or fill the place of a structure, fence, deck or paved surface with an equivalent or substitute structure, fence, deck or paved surface that serves the same purpose. "Replacement" may or may not involve an expansion.

**Restoration:** For purposes of critical areas regulation, an action that reestablishes the structure and functions of a critical area or any associated buffer that has been altered.

**Roadway:** The maintained areas cleared and graded within a road right-of-way or railroad prism. For a road right-of-way, "roadway" includes all maintained and traveled areas, shoulders, pathways, sidewalks, ditches and cut and fill slopes. For a railroad prism, "roadway" includes the maintained railroad bed, shoulders, and cut and fill slopes. "Roadway" is equivalent to the "existing, maintained, improved road right-of-way or railroad prism" as defined in the regional road maintenance guidelines.

**Salmonid:** A member of the fish family Salmonidae, including, but not limited to:

A. Chinook, coho, chum, sockeye and pink salmon;

- B. rainbow, steelhead and cutthroat salmon, which are also known as trout;
- C. brown trout;
- D. brook, bull trout, which is also known as char, and Dolly Varden char;
- E. kokanee; and
- F. pygmy whitefish.

**Salmonid Migration Barrier:** “Salmonid Migration Barrier” means an in-stream blockage that consists of a natural gradient drop (no human influence) with an uninterrupted slope greater than 100-percent (45 degree angle and height in excess of 11 vertical feet with anadromous salmon-bearing waters or a height of 3 vertical feet within resident trout only bearing waters. Culverts and weirs meet the definition, yet are subject to the Director’s determination of whether the barrier must be removed or may remain, based on factors including impacts to existing systems and significant expense.

**Setback:** Required distance of separation from the edge of critical area buffer to the face of a structure free of all structures.

**Shoreline:** Those lands defined as shorelines of the state in the Shorelines Management Act of 1971, chapter 90.58 RCW, as amended or updated.

**Shrub:** Evergreen or deciduous plant species that grows to a maximum of 24 inches to 30 feet in height.

**Side channel:** A channel that is secondary to and carries water to or from the main channel of a stream or the main body of a lake or estuary, including a back-watered channel or area and oxbow channel that is still connected to a stream by one or more aboveground channel connections or by inundation at the base flood.

**Site area:** The total horizontal area of a project site.

**Steep slope hazard area:** An area on a slope of forty percent inclination or more within a vertical elevation change of at least twenty feet. For the purpose of this definition, a slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief. Also for the purpose of this definition:

- A. The "toe" of a slope means a distinct topographic break in slope that separates slopes inclined at less than forty percent from slopes inclined at forty percent or more. Where no distinct break exists, the "toe" of a slope is the lower most limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet; and
- B. The "top" of a slope is a distinct topographic break in slope that separates slopes inclined at less than forty percent from slopes inclined at forty percent or more. Where no distinct break exists, the "top" of a slope is the upper most limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

**Stream:** An aquatic area where surface water produces a channel, not including a wholly artificial channel, unless it is:

- A. Used by salmonids; or
- B. Used to convey a stream that occurred naturally before construction of the artificial channel.

**Substantial Damage:** Per Code of Federal Regulations (CFR) Title 44. Emergency Management and Assistance, Section 59.1, Definitions, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- c) Before the improvement is started; or
- d) If the structure has been damaged and is being restored, before the damage occurred.

This term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are necessary to assure safe living conditions; or
2. Any alteration of a structure listed in the National, State, or Local Register of Historic Places.

**Surface water conveyance:** A drainage facility designed to collect, contain and provide for the flow of surface water from the highest point on a development site to receiving water or another discharge point, connecting any required flow control and water quality treatment facilities along the way. "Surface water conveyance" includes but is not limited to, gutters, ditches, pipes, biofiltration swales and channels.

**Surface water discharge:** The flow of surface water into receiving water or another discharge point.

**Swale:** See definition of ditch (above).

**Swale, vegetated:** Ditch or flat terrain with sheet flow of water for periods of time that supports vegetative ground cover.

**Tree, hazard:** Any tree with a structural defect, combination of defects or disease resulting in structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of that tree in a manner that will:

- A. Damage a residential structure or accessory structure, place of employment or public assembly or approved parking for a residential structure or accessory structure or place of employment or public assembly;
- B. Damage an approved road or utility facility; or
- C. Prevent emergency access in the case of medical hardship.

**Utility corridor:** A narrow strip of land containing underground or above-ground utilities and the area necessary to maintain those utilities. A "utility corridor" is contained within and is a portion of any utility right-of-way or dedicated easement.

**Utility facility:** A facility for the distribution or transmission of services, including:

- A. Telephone exchanges, except for telecommunications facilities;
- B. Water pipelines, pumping or treatment stations;
- C. Electrical substations;
- D. Water storage reservoirs or tanks;
- E. Municipal groundwater well-fields;
- F. Regional surface water flow control and water quality facilities;
- G. Natural gas pipelines, gate stations and limiting stations;
- H. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users;
- I. Wastewater pipelines, lift stations, pump stations, regulator stations or odor control facilities; and
- J. Communication cables, electrical wires and associated structural supports.

**Wet meadow, grazed or tilled:** An emergent wetland that has grasses, sedges, rushes or other herbaceous vegetation as its predominant vegetation and has been previously converted to agricultural activities.

**Wetland:** As per RCW 36.70A.030(20), "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and 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, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland

areas created to mitigate conversion of wetlands.

**Wetland Category:** Wetland category is determined using a regulatory classification system defined in current State and local wetlands or critical areas management regulations. The current rating system used to define wetland category within the City of Enumclaw is noted in EMC 19.02.090.B.

**Wetland Class:** Wetland class is determined through use of an ecological classification system found in “Classification of Wetlands and Deepwater Habitats of United States” written by Lewis M. Cowardin, Virginia Carter, Francis C. Golet, and Edward T. LaRoe and published by the U.S. Department of the Interior, Fish and Wildlife Service (Publication No. FWS/OBS 79/31, December 1979).

**Wetland complex:** A grouping of two or more wetlands, not including grazed wet meadows, that meet the following criteria:

- A. Each wetland included in the complex is within five hundred feet of the delineated edge of at least one other wetland in the complex;
- B. The complex includes at least:
  1. one wetland classified category I or II;
  2. three wetlands classified category III; or
  3. four wetlands classified category IV;
- C. The area between each wetland and at least one other wetland in the complex is predominately vegetated with shrubs and trees; and
- D. There are not any barriers to migration or dispersal of amphibian, reptile or mammal species that are commonly recognized to exclusively or partially use wetlands and wetland buffers during a critical life cycle stage, such as breeding, rearing or feeding.

**Wetland creation:** For purposes of wetland mitigation, the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities to create a wetland typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils and support the growth of hydrophytic plant species. Wetland creation results in a gain in wetland acres.

**Wetland edge:** The line delineating the outer edge of a wetland, consistent with the wetland delineation manual required by RCW 36.70A.175.

**Wetland enhancement:** The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve specific functions or to change the growth state or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Wetland enhancement activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydro-periods or some combination of these. Wetland enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Wetland enhancement can result in a change of wetland class or wetland category or both.

**Wetland, forested:** A wetland that is dominated by mature woody vegetation or a wetland vegetation class that is characterized by woody vegetation at least twenty feet tall.

**Wetland, isolated:** An area that is not connected to any waters of the state under normal circumstances and weather patterns, up to the 100 year storm event.

**Wetland rehabilitation:** Wetland rehabilitation is very similar to wetland enhancement except that the activities generally do not result in a change of wetland class or wetland category nor is there a net increase in wetland area. The term wetland improvement is generally synonymous with the wetland rehabilitation.

**Wetland restoration:** For purposes of wetland mitigation wetland restoration means the manipulation of the

physical, chemical, or biological characteristics of a site with the goal of returning natural or historic wetland functions to a previously filled or substantially degraded wetland. Activities typically required to reestablish a wetland include removing fill material, importing hydric soil, grading wetland area, altering human-made drainage features, and installing appropriate native plants. Wetland restoration can result in a gain in both wetland acres and wetland function. Wetland rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

**Wetland vegetation classes:** A wetland community classified under the Cowardin naming system or by its vegetation description including aquatic bed, emergent, forested and shrub-scrub. To constitute a separate wetland vegetation class, the vegetation must be at least partially rooted within the wetland and must occupy the uppermost stratum of a contiguous area or comprise at least thirty percent areal coverage of the entire wetland.

**Wildlife:** Birds, fish and animals, that are not domesticated and are considered to be wild.

## **APPENDIX E: Critical Area Identification Form**



**APPENDIX F: Critical Area Buffer Risk and Opportunity Rating Form**

(The rating form follows this page)

**APPENDIX G: WAC 220-16-030 (Rev. 2004)**

**WAC 222-16-030 Water typing system.** Until the fish habitat water type maps described below are adopted by the board, the Interim Water Typing System established in WAC 222-16-031 will continue to be used. The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes will classify streams, lakes and ponds. The department will prepare water type maps showing the location of Type S, F, and N (Np and Ns) Waters within the forested areas of the state. The maps will be based on a multi-parameter, field-verified geographic information system (GIS) logistic regression model. The multi-parameter model will be designed to identify fish habitat by using geomorphic parameters such as basin size, gradient, elevation and other indicators. The modeling process shall be designed to achieve a level of statistical accuracy of 95% in separating fish habitat streams and non-fish habitat streams. Furthermore, the demarcation of fish and non-fish habitat waters shall be equally likely to over and under estimate the presence of fish habitat. These maps shall be referred to as "fish habitat water typing maps" and shall, when completed, be available for public inspection at region offices of the department.

Fish habitat water type maps will be updated every five years where necessary to better reflect observed, in-field conditions. Except for these periodic revisions of the maps, on-the-ground observations of fish or habitat characteristics will generally not be used to adjust mapped water types. However, if an on-site interdisciplinary team using non-lethal methods identifies fish, or finds that habitat is not accessible due to naturally occurring conditions and no fish reside above the blockage, then the water type will be immediately changed to reflect the findings of the interdisciplinary team. The finding will be documented on a water type update form provided by the department and the fish habitat water type map will be updated as soon as practicable. If a dispute arises concerning a water type the department shall make available informal conferences, as established in WAC 222-46-020 which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types.

The waters will be classified using the following criteria:

**\*(1) "Type S Water"** means all waters, within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

**\*(2) "Type F Water"** means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

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

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

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

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

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

(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish.

(3) "**Type Np Water**" means all segments of natural waters within the bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, non-technical observations (see board manual, section 23), then Type Np Waters begin at a point along the channel where the contributing basin area is:

(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(b) At least 52 acres in other locations in Western Washington;

(c) At least 300 acres in Eastern Washington.

(4) "**Type Ns Water**" means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, non-fish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

\*(5) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps (see board manual section 23).

(g) "Intermittent streams" means those segments of streams that normally go dry.

(h) "Fish habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

[Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050 , [76.09.]370, 76.13.120(9). 01-12-042, § 222-16-030, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. 97-24-091, § 222-16-030, filed 12/3/97, effective 1/3/98. Statutory Authority: RCW 76.09.040, 76.09.170 and chapter 34.05 RCW. 94-01-134, § 222-16-030, filed 12/20/93, effective 1/1/94. Statutory Authority: RCW 76.09.040, 76.09.050 and chapter 34.05 RCW. 92-15-011, § 222-16-030, filed 7/2/92, effective 8/2/92. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-16-030, filed 11/16/87, effective 1/1/88; Order 263, § 222-16-030, filed 6/16/76.]