CITY OF VANCOUVER
SHORELINE MASTER PROGRAM

ADOPTED: Ord M-3995, NOVEMBER 21, 2011

AMENDED: Ord M-4021, AUGUST 20, 2012

APPROVED: September 10, 2012

EFFECTIVE: SEPTEMBER 24, 2012

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ACRONYMS

BMP	Best Management Practices
CRD	Columbia River Datum
DAHP	Department of Archaeology and Historical Preservation
DNR	Department of Natural Resources
Ecology	Washington State Department of Ecology
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
HPA	Hydraulic Project Approval
OHWM	Ordinary High Water Mark
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SMA	Shoreline Management Act
SMP	Shoreline Master Program
SSWS	Shoreline of Statewide Significance
USACOE	Unites States Army Corps of Engineers
VMC	Vancouver Municipal Code
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

CHAPTER 1 INTRODUCTION

1.1 Title

This document shall be known and may be cited as the City of Vancouver Shoreline Master Program (Program).

1.2 Adoption Authority

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

1.3 Purpose and Intent

The purpose of this Program is:

1. To guide the future development of shorelines in the City in a positive, effective, and equitable manner consistent with the Act;

2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the City's shorelines; and

3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state:

> *"It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*
>
> *In the implementation of this policy 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. To this end 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 shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

1.4 Governing Principles

1. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in Chapter 173-26 of the WAC. The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.

2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

4. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program extend beyond the designated shoreline boundaries, given that activities outside the shoreline jurisdiction may affect shorelines of the state.

5. The policies and regulations established by this Program must be integrated and coordinated with those policies and rules of the City Comprehensive Plan and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecosystems from such impairments in the following ways:

    a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines;

b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs.

c. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

d. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

1.5 Liberal Construction

As provided for in RCW 90.58.900, Liberal Construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

1.6 Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Program or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Vancouver hereby declares that it would have adopted this ordinance and each section, subsection sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

1.7 Relationship to Other Plans and Regulations

1. Applicants for shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.

2. Where this Program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.

3. Uses, developments and activities regulated by this Program may also be subject to the provisions of the City Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the City Code, including Title 20 Land Use and

Development Code and various other provisions of local, state and federal law, as may be amended.

4. In the event this Program conflicts with other applicable City policies or regulations, they must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated, the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.

5. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews are considered accepted. Major changes or new phases of projects that were not included in the originally approved plan will be subject to the policies and regulations of this Program.

6. Columbia River Shoreline Enhancement Plan District. Through the comprehensive planning process, the City of Vancouver has envisioned and planned that portion of the Columbia River shoreline jurisdiction from the eastern boundary of Wintler Park downstream to the railroad bridge (Columbia River Shoreline Enhancement Plan District) as an area of high-intensity, mixed-use development with hotels, restaurants, offices retail uses, and multi-family residences. The citizen-generated and City Council-endorsed Columbia River Renaissance Vision and Vancouver City Center Vision Subarea Plan support this development concept. In addition, the City has planned to establish a public trail along the Columbia River shoreline to connect the waterfront with Downtown; with an existing trail system in the Portland metropolitan area accessed by a pedestrian crossing on the Glen Jackson Bridge; and with a planned trail system around Vancouver Lake and following Burnt Bridge and Salmon Creeks.

1.8 The Shoreline Master Program

This Shoreline Master Program is a comprehensive use plan for the City of Vancouver, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

This entire document (Chapters 1 – 8) and the Official Shoreline Map (electronic) are adopted as the City of Vancouver's Shoreline Master Program.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program (Chapter 3 and the policies in Chapter 4 of this Program) approved under chapter RCW 90.58 shall be considered an element of the City's comprehensive plan.

All other portions of the shoreline master program adopted under RCW 90.58 RCW, including use regulations (Chapters 1, 2, 4 (other than the policies), 5, 5A, 6, 7, 8 and the Official Shoreline Map), shall be considered a part of the City's development regulations.

The Inventory & Characterization Report; Shoreline Management Strategy; Shoreline Designation Rationale; Restoration Plan; Cumulative Impacts Analysis; No Net Loss

Report; and Public Participation Plan are supporting documents and not adopted as part of the City's Shoreline Master Program or comprehensive plan.

The Inventory and Characterization Report establishes the baseline against which the standard "no net loss of shoreline ecological functions" is measured. The Restoration Plan identifies and prioritizes shoreline restoration opportunities that may be undertaken independently or in conjunction with mitigation for development impacts to improve shoreline ecological functions over time.

1.9 Effective Date

This Program and all amendments thereto shall take effect fourteen days from the date of the Department of Ecology's (Ecology's) written notice of final action, and shall apply to new applications submitted on or after that date and to applications that have not been determined to be fully complete by that date.

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CHAPTER 2 APPLICABILITY, SHORELINE PERMITS AND EXEMPTIONS

To be authorized, all uses and development activities in shorelines shall be planned and carried out in a manner consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use is required.

2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the City limits that fall under the jurisdiction of RCW 90.58 as follows:

    a. On the Columbia River from the eastern boundary of Wintler Park downstream to the eastern boundary of Parcel #153105000 (also referred to as "Port Parcel 3") shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

    b. On all other shorelines regulated by this Program, shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways; the full extent of the floodplain; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

    c. In addition to lands identified in Section 2.1(1)(a) and (b), shorelands shall include land necessary for buffers for critical areas that occur within shorelines of the state.

    d. In accordance with RCW 35.21.160, where the City is bounded by a river, lake, or other navigable water, the City's shoreline jurisdiction extends to the middle of that river, lake, or navigable water.

    e. The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Clark County Shoreline Master Program (SMP). The City's SMP will apply upon annexation and no additional procedures will be required by Ecology at the time of annexation (WAC 173-26-150) unless a re-designation is occurring per Section 4.4.5 and Table 4-1.

f. An unofficial copy (see Section 4.4.2) of the Shoreline Map for the City and its UGA is shown in Appendix A.

g. Shorelines of Statewide Significance:

   i. Columbia River

   ii. Vancouver Lake

h. Shorelines of the State:

   i. Burnt Bridge Creek

   ii. Fifth Plain Creek

   iii. Lacamas Creek

   iv. Salmon Creek

   v. Mill Creek

   vi. Curtin (Glenwood) Creek

   vii. Lake River

   viii. Unnamed Lake 02

2. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not are subject to the provisions of this Program.

3. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).

4. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.

5. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.

6. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.

2.1.1 Developments Not Subject to the Shoreline Management Act

1. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.

2. Environmental excellence program agreements entered into under RCW 43.21K (RCW 90.58.045).

2.2 Shoreline Substantial Development Permit Required

1. Substantial development as defined by this program and RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.

2. The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this Program.

2.3 Exemptions from a Shoreline Substantial Development Permit

2.3.1 General Requirements

1. Except as specifically exempted by statute (Section 2.1.1), all proposed uses and development occurring within shoreline jurisdiction must conform to the Act and this Program.

2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a substantial development permit but shall conform to the policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (Sections 2.3.3 and 7.2.7).

3. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit (Section 2.7 and 7.2.9) even if the development or use does not require a substantial development permit.

4. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only

be authorized by approval of a shoreline variance (Section 2.6 and 7.2.10) even if the development or use does not require a substantial development permit.

5. If a shoreline substantial development permit is required for any part of a proposed development, then a shoreline substantial development permit is required for the entire proposed development project.

6. Exemptions from the requirement to obtain a shoreline substantial development permit shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

7. The burden of proof that a development or use is exempt from the requirement to obtain a shoreline substantial development permit is on the applicant for the development action.

2.3.2 List of Exemptions

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 2.3.3.

1. Any development of which the total cost or fair market value does not exceed five thousand, seven hundred, eighteen dollars ($5,718.00) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.

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

3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the State Department of Fish and Wildlife.

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

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.

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

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

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies in fresh waters when the fair market value of the dock does not exceed ten thousand dollars ($10,000.00), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars ($2,500.00) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

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

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

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

12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

    a. The activity does not interfere with the normal public use of surface waters;

    b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

    c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and

    d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial

responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.

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

14. Watershed restoration projects as defined in RCW 89.08.460.

15. A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark (RCW 90.58.580(3)).

16. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the Act or this Program (90.58.030(2)(d)(ii)).

17. The holder of a certification from the governor pursuant to chapter 80.50 RCW (certification from the State Energy Facility Site Evaluation Council) shall not be required to obtain a permit under this Program (90.58.140(9)).

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

    a. The project has been approved by WDFW;

    b. The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55; and

    c. The City has determined that the project is substantially consistent with the local shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project applicant.

    Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this Program.

19. Hazardous substance remedial actions pursuant to a consent decree, order, or agreed order issued under RCW 70.105(D) and 90.58.355 are exempt from the requirement to obtain a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance under this Program.

2.3.3 Statements of Exemption

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator. A written

statement of exemption is required for emergency development after the emergency has been abated. The property owner, person, or agency undertaking the emergency action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to shoreline ecological functions resulting from the emergency action. Restoration and/or mitigation activities must be initiated within three months of the date of eht emergency or as otherwise determined by the Shoreline Administrator, and completed in a timely manner.

2. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 2.3.2. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.

3. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and Act.

4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial.

5. The Shoreline Administrator's decision on a statement of exemption may be appealed in accordance with the procedures in Section 7.4.8.

6. Exempt activities shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.

2.4 Prohibited Uses

The following modifications and uses are prohibited in all shoreline designations and are not eligible for review as a shoreline conditional use or shoreline variance. See Chapter 8 or VMC 14.26 110 (indicated) for definitions of the following modifications and uses:

1. Uses not otherwise allowed in the underlying zoning district;

2. Parking as a primary use;

3. Discharge of potentially harmful materials, including but not limited to solid wastes, liquid wastes, and untreated effluents;

4. Solid waste, radioactive waste or hazardous material disposal sites (VMC 14.26.110);

5. Sewage disposal cesspools (VMC 14.26.110);

6. Chemical lagoons and pits (VMC 14.26.110);

7. Outdoor wood preservation operations (VMC 14.26.110);

8. Hard chrome plating operations (VMC 14.26.110);

9. Speculative fill;

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

2.5 Nonconforming Uses and Development

2.5.1 Existing Uses and Development

Existing uses, structures and lots legally established prior to the effective date of this Program are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this Program, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exceptions are provided for in Sections 2.5.2, 2.5.3, or 2.5.4.

2.5.2 Nonconforming Uses

1. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Program and the Act.

2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify.

3. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.

4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this Program.

5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within twelve (12) months following said damage.

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

7. Floating homes legally established prior to January 1, 2011 are considered conforming preferred uses, subject to RCW 90.58.270 and the requirements in Section 6.3.11.

2.5.3 Nonconforming Structures

1. A nonconforming building or structure may be maintained or repaired, provided such improvements do not extend or expand the nonconformity of such building or structure and are consistent with the provisions of this Program, unless required by other law or ordinance.

2. If a nonconforming structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:

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

    b. The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;

    c. No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;

    d. The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;

    e. The reconstruction is commenced within one (1) year of the issuance of permit;

    f. The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and

    g. Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.

3. Notwithstanding the foregoing, on the Columbia River shoreline from the eastern boundary of Wintler Park downstream to the railroad bridge, structures existing or for which shoreline substantial development permits or shoreline conditional use permits were formally approved and construction was not yet begun or completed as of the effective date of this Program are considered conforming.

4. Legally established residences and appurtenant structures located landward of the OHWM which are used for a conforming use, but do not meet the standards of the Program are considered conforming structures, subject to RCW 90.58.620 and the requirements in section 6.3.11.

2.5.4 Nonconforming Lots

Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Program and the Act.

2.6 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant or thwart the policies set forth in the Act and this Program.

2. When a shoreline variance is requested, the City Hearing Examiner shall be the final approval authority for the City (Section 7.4.5). However, shoreline variances must have approval from Ecology, which shall have final approval authority. (Section 7.4.10(2)) Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. The Shoreline Administrator is authorized to recommend a variance from the performance standards of this Program only when all of the following criteria are met (WAC 173-27-170):

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

    b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Program, and not, for example, from deed restrictions or the applicant's own actions;

    c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program and will not cause adverse impacts to the shoreline environment;

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

e. That the variance requested is the minimum necessary to afford relief; and

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

4. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes all reasonable use of the property;

   b. That the proposal is consistent with the criteria established under subsection (3)(b) through (f) of this section; and

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

5. The burden of proving that a proposed shoreline variance meets the criteria of this program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

6. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.

7. Before making a recommendation to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.

8. A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this Program, and vice versa.

9. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline designation.

2.7 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner that will be consistent with the policies of the Act and this Program, particularly where denial of the application would thwart the policies of the Act.

2. When a conditional use is requested, the City Hearing Examiner shall be the final approval authority for the City (Section 7.4.4). However, shoreline conditional uses must have approval from Ecology, which shall have final approval authority under WAC 173-27-200 (Section 7.4.10(2)).

3. Conditional use permits shall be authorized only when they are consistent with the following criteria:

    a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;

    b. The use will not interfere with normal public use of public shorelines;

    c. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program;

    d. The proposed use will cause no significant adverse effects to the shoreline designation in which it is to be located; and

    e. The public interest will suffer no substantial detrimental effect; and

    f. Consideration has been given to cumulative impact of additional requests for like actions in the area.

4. Other uses not specifically identified in this Program are considered "unclassified uses" and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements.

5. Uses specifically prohibited by this Program shall not be authorized through a shoreline conditional use permit.

6. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

7. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

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CHAPTER 3 SHORELINE MASTER PROGRAM GOALS AND POLICIES

This chapter describes overall Program goals and policies. The general regulations in Chapters 5 and 5A and the specific use regulations in Chapter 6 are the means by which these goals and policies are implemented.

3.1 General Shoreline Goals

The general goals of this Program are to:

1. Use the full potential of shorelines in accordance with the opportunities presented by their relationship to the surrounding area, their natural resource values, and their unique aesthetic qualities offered by water, topography, and views; and

2. Develop a physical environment that is both ordered and diversified and which integrates water and shoreline uses while achieving a net gain of ecological function.

3.2 Shorelines of Statewide Significance

Within the City of Vancouver, the Columbia River and Vancouver Lake are designated shorelines of statewide significance (SSWS). Shorelines of statewide significance are of value to the entire state. In accordance with RCW 90.58.020, SSWS will be managed as follows:

1. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:

    a. Recognize and protect the statewide interest over local interest;

    b. Preserve the natural character of the shoreline;

    c. Result in long term over short term benefit;

    d. Protect the resources and ecological function of the shoreline;

    e. Increase public access to publicly-owned areas of the shorelines;

    f. Increase recreational opportunities for the public in the shoreline; and

    g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

2. Uses that are not consistent with these policies should not be permitted on SSWS.

3. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected.

4. Implementation of restoration projects on shorelines of statewide significance should take precedence over implementation of restoration projects on other shorelines of the state.

5. Development should be focused in already developed shoreline areas to reduce adverse environmental impacts and to preserve undeveloped shoreline areas. In general, SSWS should be preserved for future generations by 1) restricting or prohibiting development that would irretrievably damage shoreline resources, and 2) evaluating the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

3.3 Archaeological, Historic, and Cultural Resources

3.3.1 Goal

The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.

3.3.2 Policies

1. Identify, protect, preserve, and restore important archaeological, historic, and cultural sites located in shorelands of the state for educational, scientific, and enjoyment of the general public.

2. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites be designed and managed in a manner that protects the resource.

3. Historical and cultural sites should be acquired so as to ensure their protection and preservation.

4. Encourage projects and programs that foster a greater appreciation of shoreline management, local history, maritime activities, environmental conservation, and maritime history.

5. Continue to contribute to the state and local inventory of archaeological sites enhancing knowledge of local history and understanding of human activities.

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3.4 Conservation

3.4.1 Goal

The goal of conservation is to protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

3.4.2 Policies

1. Shorelines that support high value habitat or high quality associated wetlands should be considered for the highest level of protection to remain in an unaltered condition.

2. Impacts to critical areas should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of watershed processes and shorelines functions.

3. Management practices for natural resources (including agriculture, timber and mining) in shoreline areas should be developed and implemented to ensure the preservation of non-renewable resources, including unique, scenic and ecologically sensitive features, wetlands, and wildlife habitat.

4. Priority should be given to proposals to create, restore or enhance habitat for priority species in terms of administrative and regulatory assistance.

5. Regulatory, non-regulatory, and incentive programs should all be used for the protection and conservation of wildlife habitat areas. Emphasize policies and standards to protect and conserve critical areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.

6. Encourage the retention of existing vegetation along shorelines and where removal is unavoidable for physical or visual access to the shoreline, limit alteration such that habitat connectivity is maintained, degraded areas are restored, and the health of remaining vegetation is not compromised.

3.5 Economic Development

3.5.1 Goal

The goal for economic development is to create and maintain an economic environment that is balanced with the natural and human environment.

3.5.2 Policies

1. Current economic activity that is consistent with the policies of this SMP should continue to be supported.

2. Healthy economic growth is allowed and encouraged through those economic activities that will be an asset to the local economy and which will result in the least possible adverse effect on the quality of the shoreline and downstream environments.

3. New water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or water quality are encouraged along the shoreline.

4. As an economic asset, the recreation industry should be encouraged along shorelines in a manner that will enhance the public enjoyment of shorelines, consistent with protection of critical areas and cultural resources.

5. Existing non-water-oriented commercial, industrial, and resource-based activities located in the shoreline jurisdiction are encouraged to protect watershed processes and shoreline ecological functions.

3.6 Flood Prevention and Flood Damage Minimization

3.6.1 Goal

The goal for flood hazards is to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

3.6.2 Policies

1. All shoreline development should be located, designed, and constructed to prevent flood damage and to the extent possible be located outside of shoreline jurisdiction.

1. Flood management works should be located, designed, constructed and maintained to protect:

    a. The physical integrity and other properties of the shoreline and other properties that may be damaged by alterations of the geo-hydraulic system;

    b. Water quality and natural ground water movement;

    c. Fish, vegetation, and other life forms and their habitat vital to the aquatic food chain; and

    d. Recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.

2. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of shoreline ecological functions and ecosystem-wide processes.

3. Flood protection measures that result in channelization and/or reduction in shoreline ecological function should be avoided.

4. Proposals for shoreline protection should clearly demonstrate that life, property, and natural resource values within the stream system will not be endangered.

5. When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

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

3.7 Public Access and Recreation

3.7.1 Goal

The goal of public access and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

3.7.2 Policies

1. Provide, protect, and enhance a public access system that is both physical and visual; utilizes both private and public lands; increases the amount and diversity of public access to the State's shorelines and adjacent areas; and is consistent with the shoreline character and functions, private rights, and public safety.

2. Increase and diversify recreational opportunities by promoting the continued public acquisition of appropriate shoreline areas for public use, and develop recreation facilities so that they are distributed throughout the community to foster convenient access.

3. Locate public access and recreational facilities in a manner that encourages variety, accessibility, and connectivity in a manner that will preserve the natural characteristics and functions of the shoreline.

4. Encourage public access provisions consistent with adopted City and County trails plans.

5. Encourage public access as part of each development project by a public entity, and for all private development (except residential development of less than four parcels), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

6. Discourage shoreline uses that curtail or reduce public access unless such restriction is in the interest of the environment, public health, and safety, or is necessary to a proposed beneficial use.

7. Consider private rights, public safety, and protection of shoreline ecological functions and processes when providing public access and recreational opportunities.

3.8 Restoration

3.8.1 Goal

The goal of restoration is to re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Restoration Plan and other approved restoration plans.

3.8.2 Policies

1. Shorelines that are biologically degraded should be reclaimed and restored to the greatest extent feasible. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects. Implementation of restoration projects on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.

2. Restoration strategies should be developed and implemented such that ecosystem processes are sustainable in the long-term.

3. Restoration of shoreline ecological functions should be encouraged during redevelopment.

4. Restoration efforts should include retrofitting existing stormwater control facilities to improve water quality.

5. Restoration efforts should consider a focus on floodplain and channel migration zone reconnection where rivers are confined by levees.

6. Restoration projects should have adaptive management techniques including adjusting the project design, correcting problems (barriers to success), and implementing contingency measures.

7. Eradication of invasive species, including noxious weeds and non-native species, should be undertaken as needed.

8. Planting of vegetation that enhances shoreline ecological function should be encouraged.

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9. Education programs should be developed for:

    a. Property owners about proper vegetation/landscape maintenance and the impacts of shore armoring and over-water structures; and

    b. Boaters about proper waste disposal methods, anchoring techniques, best boating practices, and the State's invasive species inspection program pursuant to RCW 77.15.290.

10. Cooperative restoration actions involving local, state, and federal agencies, Native American tribes, non-government organizations, and landowners should be encouraged.

3.9 Shoreline Modification and Stabilization

3.9.1 Goal

The goal for shoreline modification and stabilization is to avoid or minimize the need for shoreline armoring along shorelines of the state, and when it is necessary, achieve it in a way that best protects ecosystem processes, shoreline ecological functions, and downstream properties.

3.9.2 Policies

1. New developments should be located in such a manner as to not require shoreline stabilization measures.

2. When necessary, natural, non-structural shoreline stabilization measures are preferred over structural stabilization measures. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

    a. No action;

    b. Flexible stabilization works constructed of natural materials, including soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization;

    c. Rigid works constructed of structural materials such as riprap or concrete.

3. Allow new or expanded structural shore stabilization, including bulkheads, only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.

4. Shoreline stabilization should be located and designed to accommodate the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.

5. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.

6. Shoreline stabilization projects should be developed in a coordinated manner among affected property owners and public agencies within a reach where feasible, particularly those that cross jurisdictional boundaries, to address ecological and geo-hydraulic processes and sediment conveyance.

7. Failing, harmful, unnecessary, or ineffective shoreline stabilization structures should be removed or replaced to restore shoreline ecological functions and processes.

8. Larger works such as jetties, breakwaters, weirs, or groin systems should be permitted only for water-dependent uses and where mitigated to provide no net loss of shoreline ecological functions and processes.

9. Lower impact structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, are preferred over higher impact structures.

10. Encourage and facilitate levee setback (including but not limited to, pulling back an existing levee to allow for a larger floodplain area contiguous to a water body), levee removal, and other shoreline enhancement projects.

11. Materials used for construction of shoreline stabilization should be selected for durability, ease of maintenance, and compatibility with local shoreline features.

12. Development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of shoreline ecological functions within the rivers and streams should be limited.

3.10 Shoreline Use and Development

3.10.1 Goal

The goal for shoreline use and development is to balance the preservation and development of shorelines in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with shoreline designations and sensitive to and compatible with ecological systems and other shoreline resources. To help with this balance, shoreline and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and reserved.

3.10.2 Policies

1. Uses in shorelines and water areas shall be allowed in the following priority order:

    a. Water-dependent uses;

    b. Water-related uses; and

    c. Water-enjoyment uses.

2. Uses, activities, and facilities should be located on shorelines in such a manner as to:

    a. Retain or improve the quality of shoreline ecological function;

    b. Respect the property rights of others;

    c. Ensure that proposed shoreline uses do not create risk or harm to neighboring or downstream properties; and

    d. Preserve and/or restore, to the maximum reasonable extent, the shoreline's natural features and functions in conjunction with any redevelopment or revitalization project.

3. The following are encouraged in shoreline areas:

    a. Uses that enhance their specific areas or employ innovative features for purposes consistent with this program;

    b. The redevelopment of any area not suitable for preservation of natural features, based on its shoreline designation, with an emphasis on public access;

    c. Master planning for large sites or projects;

    d. Shared uses and joint use facilities in shoreline developments;

    e. Uses that allow for or incorporate restoration of shoreline areas that are degraded as a result of past activities or events; and

4. Uses proposed on lands adjacent to but outside of immediate shoreline jurisdiction should be consistent with the intent of this Program and should not adversely impact shoreline ecological functions.

3.11 Transportation, Utilities, and Institutional Facilities

3.11.1 Goal

The goal for transportation, utilities, and institutional facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

3.11.2 Policies

1. Locate institutional facilities, utilities and circulation systems that are not shoreline-dependent outside of the shoreline jurisdiction to the maximum extent possible to reduce interference with either natural shoreline ecological functions or other appropriate shoreline uses.

2. Provide safe, reasonable, and adequate circulation systems to shorelines where routes will have the least possible adverse effect on shoreline ecological function and existing ecological systems, while contributing to the visual enhancement of the shoreline.

3. Protect, manage, and enhance those characteristics of shoreline transportation corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.

4. Devote roads within the shoreline jurisdiction to low volume local access routes and shoreline public access.

5. Encourage alternate modes of travel and provide multiple-use transportation corridors where compatible if shoreline transportation development is necessary.

6. Locate utility and transportation corridors to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.

7. When new utility and transportation facilities are developed in the shoreline jurisdiction, protect, enhance, and encourage development of physical and visual shoreline public access.

8. Where feasible, relocate existing utility and transportation facilities, such as transmission lines, rail lines, or freeways that limit public shoreline access or other shoreline uses and convert such rights-of-way to new public access routes.

9. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.

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3.12 Views and Aesthetics

3.12.1 Goal

The goal for views and aesthetics is to assure that the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, is protected to the greatest extent feasible.

3.12.2 Policies

1. Identify and encourage the protection of scenic vistas and areas where the shoreline has high aesthetic value.

2. Encourage development within the shoreline area that, provides visual and physical linkage to the shoreline, and enhances the waterfront.

3. Encourage development design that minimizes adverse impacts on views enjoyed by a substantial number of residences.

4. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.

3.13 Water Quality and Quantity

3.13.1 Goal

The goal for water quality and quantity is to maintain or enhance shoreline ecological functions and to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment.

3.13.2 Policies

1. Encourage the location, construction, operation, and maintenance of shoreline uses, developments, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.

2. Minimize, through effective education, site planning, and best management practices, the inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage systems that could contaminate or cause adverse effects on water quality.

3. Encourage the maintenance and restoration of appropriate vegetative buffers along surface waters to improve water temperature and reduce the adverse effects of erosion and runoff.

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CHAPTER 4 SHORELINE DESIGNATIONS

4.1 Introduction

The intent of assigning shoreline designations to specific geographies is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given a shoreline designation based on existing development patterns, natural capabilities and limitations, and the vision of the City. The shoreline designations are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the shoreline designations and are used for determining uses and activities that can be permitted in each shoreline designation. Development regulations specify how and where permitted development can take place within each shoreline designation and govern height and setback.

4.2 Authority

1. Local governments are required under the State Shoreline Management Act of 1971 (RCW 90.58) and the Shoreline Master Program Guidelines (WAC 173-26) to develop and assign a land use categorization system known as "shoreline environment designations" for shoreline areas as a basis for effective shoreline master programs. For purposes of this Program "shoreline designation" is used in place of the term "shoreline environment designation" referred to in WAC 173-26.

2. The method for local government to account for different shoreline conditions is to assign a shoreline designation to each distinct shoreline section in its jurisdiction. The shoreline designation assignments provide the framework for implementing shoreline policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each shoreline designation.

4.3 Shoreline Designations

The City classification system consists of shoreline designations that are consistent with and implement the Act (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26) and the City of Vancouver Comprehensive Plan. These designations have been assigned consistent with the corresponding criteria provided for each shoreline designation. In delineating shoreline designations, the City aims to ensure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should be consistent with the policies for restoration of degraded shorelines. All the shoreline designations, even if they are not applied within the City limits or urban growth area are listed here to maintain consistency countywide (See Sections 4.4.5 and 6.2), and are defined in the following sections:

1. Aquatic;

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2. Natural;

3. Urban Conservancy;

4. Medium Intensity;

5. High Intensity;

The following shoreline designations are not applied within City limits or the urban growth area:

6. Rural Conservancy – Residential; and

7. Rural Conservancy – Resource Lands.

4.3.1 Aquatic Shoreline Designation

4.3.1.1 Purpose

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

4.3.1.2 Designation Criteria

An Aquatic shoreline designation is assigned to lands and waters waterward of the ordinary high-water mark.

4.3.1.3 Areas Designated

The Aquatic shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.1.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.

2. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions.

3. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.

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4. On navigable waters or their beds, all uses and developments should be located and designed to:

    a. Minimize interference with surface navigation;

    b. Consider impacts to public views; and

    c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.

5. Multiple or shared use of over-water and water access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of water resources.

6. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

7. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.

8. Aquaculture practices should be encouraged in those waters and beds most suitable for such use. Aquaculture should be discouraged where it would adversely affect the strength or viability of native stocks or unreasonably interfere with navigation.

9. When shoreline uses, development, activities, and modifications in the Aquatic shoreline designation require use of adjacent landward property, that landward property should be in a shoreline designation that allows that use, development, activity or modification.

4.3.2 Natural Shoreline Designation

4.3.2.1 Purpose

The purpose of the “Natural” shoreline designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline ecological functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, restoration of degraded shorelines within this environment is appropriate.

4.3.2.2 Designation Criteria

The following criteria should be considered in assigning a Natural shoreline designation:

1. The shoreline's ecological functions are substantially intact and have a high opportunity for preservation and low opportunity for restoration;

2. The shoreline is generally in public or conservancy ownership or under covenant, easement, or a conservation tax program.

3. The shoreline contains little or no development, or is planned for development that would have minimal adverse impacts to ecological functions or risk to human safety;

4. There are low-intensity agricultural uses, and no active forestry or mining uses;

5. The shoreline has a high potential for low-impact or passive or public recreation and is planned for park or open space uses as part of the comprehensive plan; or

6. The shoreline is considered to represent ecosystems and geologic types that have high scientific and educational value.

4.3.2.3 Areas Designated

The Natural shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.2.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Any use that would substantially degrade the shoreline ecological functions or natural character of the shoreline area should not be allowed.

2. Scientific, historical, cultural, educational research uses, and low-impact, passive recreational uses may be allowed provided that ecological functions remain intact.

3. Vegetation should remain undisturbed except for removal of noxious vegetation and invasive species. Proposed subdivision or lot line adjustments, new development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.

4. Uses that would deplete physical or biological resources or impair views to or from the shoreline over time should be prohibited.

5. Only physical alterations that serve to protect a significant or unique physical, biological or visual shoreline feature that might otherwise be degraded or destroyed; or those alterations that are the minimum necessary to support a permitted use should be allowed.

6. Only the following types of signs should be considered for location in the shorelines: interpretive, directional, navigational, regulatory, and public safety.

4.3.3 Urban Conservancy Shoreline Designation

4.3.3.1 Purpose

The purpose of the "Urban Conservancy" shoreline designation is to protect and restore shoreline ecological functions of open space, floodplains, and other sensitive lands, where they exist in urban and developed settings, while allowing a variety of compatible uses.

4.3.3.2 Designation Criteria

The following criteria are used to consider an Urban Conservancy shoreline designation:

1. The shoreline is located within incorporated municipalities and designated urban growth areas;

2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration, or low to moderate ecological function with moderate to high opportunity for restoration;

3. The shoreline has open space or critical areas that should not be more intensively developed;

4. The shoreline is not highly developed and is likely in recreational use. The shoreline has the potential for development that is compatible with ecological restoration. The shoreline is planned for a park, as open space, or for a Master Planned Resort;

5. The shoreline has moderate to high potential for low-impact, passive or active water-oriented recreation where shoreline ecological functions can be maintained or restored.

4.3.3.3 Areas Designated

The Urban Conservancy shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.3.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Uses that preserve the natural character of the area or promote preservation of open space or critical areas either directly or over the long term should be the

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primary allowed uses. Uses that result in restoration of shoreline ecological functions should be allowed if the use is otherwise compatible with the purpose of the Urban Conservancy shoreline designation and the setting.

2. Single family residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.

4. Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.

5. Thinning or removal of vegetation should be limited to that necessary to

    a. Remove noxious vegetation and invasive species;

    b. Provide physical or visual access to the shoreline; or

    c. Maintain or enhance an existing use consistent with critical areas protection and maintenance or enhancement of shoreline ecological functions.

6. Public access and public recreation facilities are a preferred use if they will not cause substantial ecological impacts and when restoration of ecological functions is incorporated.

7. Low intensity water-oriented commercial uses may be permitted if compatible with surrounding uses.

4.3.4 Medium Intensity Shoreline Designation

4.3.4.1 Purpose

The purpose of the “Medium Intensity” shoreline designation is to accommodate primarily residential development and appurtenant structures, but to also allow other types of development that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

4.3.4.2 Designation Criteria

The following criteria are used to consider a Medium Intensity shoreline:

1. The shoreline is located within incorporated municipalities and designated urban growth areas.

2. The shoreline has low to moderate ecological function with low to moderate opportunity for restoration;

3. The shoreline contains mostly residential development at urban densities and does not contain resource industries (agriculture, forestry, mining);

4. The shoreline is planned or platted for residential uses in the comprehensive plan; or

5. The shoreline has low to moderate potential for low-impact, passive or active water-oriented recreation where ecological functions can be restored.

4.3.4.3 Areas Designated

The Medium Intensity shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.4.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization and maintaining or improving water quality to ensure no net loss of ecological functions.

2. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area.

3. Public access and joint use (rather than individual) of recreational facilities should be promoted.

4. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.

5. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.

6. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed as part of mixed-use developments where the primary use is residential and where there is a substantial

public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines.

4.3.5 High Intensity Shoreline Designation

4.3.5.1 Purpose

The purpose of the "High Intensity" shoreline designation is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing shoreline ecological functions and restoring ecological functions in areas that have been previously degraded.

4.3.5.2 Designation Criteria

The following criteria are used to consider a High Intensity shoreline designation:

1. The shoreline is located within incorporated municipalities and designated urban growth areas;

2. The shoreline has low to moderate ecological function with low to moderate opportunity for ecological restoration or preservation;

3. The shoreline contains mostly industrial, commercial, port facility, mixed-use, or multi-family residential development at high urban densities and may contain industries that are not designated agriculture, forestry, or mineral resource lands in the comprehensive plan;

4. The shoreline may be or have been identified as part of a state or federal environmental remediation program;

5. The shoreline is planned or platted for high intensity uses in the comprehensive plan; or

6. The shoreline may support public passive or active water-oriented recreation where ecological functions can be restored.

4.3.5.3 Areas Designated

The High Intensity shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.5.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development.

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2. Promote infill and redevelopment in developed shoreline areas and encourage environmental remediation and restoration of the shoreline, where applicable with the goal of achieving full utilization of designated high-intensity shorelines.

3. Encourage the transition of uses from non-water-oriented to water-oriented uses.

4. Water-oriented uses are encouraged, however new non-water oriented uses may be allowed if that use has limited access to the shoreline and when included in a master plan or part of a mixed-use development.

The following shoreline designations are not applied within City limits or the urban growth area:

4.3.6 Rural Conservancy – Residential Shoreline Designation

4.3.6.1 Purpose

The purpose of the "Rural Conservancy – Residential" shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy - Residential shoreline designation include low-impact, passive recreation uses, water-oriented commercial development, and low-intensity residential development.

4.3.6.2 Designation Criteria

The following criteria are used to consider a Rural Conservancy – Residential shoreline designation:

1. The shoreline is located outside of incorporated municipalities and designated urban growth areas;

2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;

3. The shoreline is not highly developed and most development is low-density residential;

4. The shoreline is planned or platted Rural Center, Rural, or Master Planned Resort;

5. The shoreline has moderate to high potential for public, water-oriented recreation where ecological functions can be maintained or restored; or

6. The shoreline has high scientific or educational value or unique historic or cultural resources value.

4.3.6.3 Areas Designated

The Rural Conservancy – Residential shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.6.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Uses in the Rural Conservancy – Residential shoreline designation should be limited to those that sustain the shoreline area's physical and biological resources and do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area.

2. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.

4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided significant adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.

5. Water-oriented commercial uses should be allowed in rural centers and Master Planned Resorts only.

6. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

4.3.7 Rural Conservancy – Resource Lands Shoreline Designation

4.3.7.1 Purpose

The purpose of the “Rural Conservancy – Resource Lands” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy – Resource Lands shoreline designation include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, and other natural resource-based uses.

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4.3.7.2 Designation Criteria

The following criteria are used to consider a Rural Conservancy – Resource Lands shoreline designation:

1. The shoreline is located outside of incorporated municipalities and designated urban growth areas;

2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;

3. The shoreline is not highly developed, but consists primarily of resource operations (agriculture, forestry, mining) and recreation, but may contain Master Planned Resorts;

4. The shoreline is planned or platted Rural Industrial, Forest, Agriculture, Agri-Wildlife, or has a surface mining overlay;

5. The shoreline has a moderate to high potential for low-intensity, passive water-oriented recreation where resource industry-related safety concerns are minimal or mitigated and ecological functions can be maintained or restored; or

6. The shoreline has moderate to high scientific or educational value or unique historic or cultural resources value.

4.3.7.3 Areas Designated

The Rural Conservancy – Resource Lands shoreline designation applies to areas as shown on a copy of the Unofficial Shoreline Map in Appendix A.

4.3.7.4 Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Agriculture, commercial forestry, and mining should be allowed in Rural Conservancy – Resource Lands provided they are allowed in the underlying zoning designation, and adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.

2. Encourage regulations that ensure new shoreline uses, development, and activities to sustain the shoreline area's physical and biological resources, do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area, and achieve no net loss of shoreline ecological functions.

3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.

4. Allow open space and recreational uses consistent with protection of shoreline ecological functions and personal safety considerations.

5. Only water-oriented commercial uses that support permitted uses should be allowed.

6. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

4.4 Official Shoreline Map

4.4.1 Map Established

1. The location and extent of areas under the jurisdiction of this Program, and the boundaries of various shoreline designations affecting the lands and waters of the City shall be as shown on the maps entitled, "Official Shoreline Designation Map (East), City of Vancouver, Washington" and "Official Shoreline Designation Map (West), City of Vancouver, Washington" which together comprise the "Official Shoreline Designation Map" for the City of Vancouver, Washington. All the notations, references, amendments, and other information shown on the "Official Shoreline Designation Map" are hereby made a part of this Program, as if such information set forth on the map were fully described herein.

2. In the event that new shoreline areas are discovered (including but not limited to, associated wetlands) that are not mapped and/or designated on the Official Shoreline Designation Map, these areas are automatically assigned an Urban Conservancy designation for lands within City limits and urban growth areas, or Rural Conservancy – Residential if on lands outside urban growth areas until the shoreline can be re-designated through a Program amendment.

3. In the event of a mapping error, the City will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

4.4.2 File Copies

The Official Shoreline Designation Map is in electronic format and shall be kept on file in the office of the City Clerk, on the City website (www.cityofvancouver.us), and at Ecology. Unofficial copies of the Map may be prepared for administrative purposes. To facilitate use of this Program an "unofficial copy" of the Map has been attached in Appendix A.

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4.4.3 Map Amendments

The Official Shoreline Designation Map is an integral part of this Program and may not be amended except upon approval by the City and Ecology, as provided under the Act.

4.4.4 Boundary Interpretation

If disagreement develops as to the exact location of a shoreline designation boundary line shown on the Official Shoreline Designation Map, the following rules shall apply:

1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;

2. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;

3. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed;

4. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Chapter 7, Administration and Enforcement.

4.4.5 Shoreline Designation Changes and Urban Growth Boundary Revisions

When a portion of shoreline jurisdiction is brought into or removed from an urban growth area, a new shoreline designation may need to be assigned. Shoreline designations shall be assigned in accordance with Table 4-1, Shoreline Designations for Urban/Rural Boundary Revisions. Where more than one designation could be appropriate according to Table 4-1, the shoreline designation criteria in this chapter shall be applied and the best-fitting shoreline designation assigned. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to remove a portion of shoreline jurisdiction from a City or urban growth area and to amend the Official Shoreline Designation Map and shall be effective upon approval by Ecology (see Section 4.4.3).

Table 4-1. Shoreline Designations for Urban1/Rural2 Boundary Revisions

SENDING Jurisdiction Shoreline Designation	Transfer From/To	RECEIVING Jurisdiction Shoreline Designation(s)
Aquatic	Rural/Urban Urban/Rural	Aquatic Aquatic
Natural	Rural/Urban Urban/Rural	Natural Natural
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy Medium Intensity
Rural Conservancy – Resource Lands	Rural/Urban	Urban Conservancy Medium Intensity High Intensity
Urban Conservancy	Urban/Rural	Rural Conservancy – Residential Rural Conservancy – Resource Lands
Medium Intensity	Urban/Rural	Rural Conservancy – Residential
High Intensity	Urban/Rural	Rural Conservancy – Resource Lands

[1]Urban = City or Urban Growth Area
[2]Rural = Unincorporated Clark County outside Urban Growth Areas

CHAPTER 5 GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations and those in Chapter 5A in addition to the applicable use-specific regulations in Chapter 6.

5.1 General Shoreline Use and Development Regulations

1. Shoreline uses and developments that are water-dependent shall be given priority.

2. The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:

    a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.

    b. Minimizing unavoidable 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. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.

    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. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.

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

3. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through voluntary restoration efforts.

4. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.

5. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative

that allows a reasonable and appropriate water-dependent use to become established or expand or protects public safety and existing primary structures.

6. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.

7. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.

8. Single family residential uses shall be allowed on all shorelands not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Natural shoreline designation, and new floating homes are prohibited in the Aquatic shoreline designation.

9. On navigable waters or their beds, all uses and developments should be located and designed to:

    a. Minimize interference with surface navigation;

    b. Consider impacts to public views; and

    c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.

10. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.

11. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

12. The effect of proposed in-stream structures on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

13. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.

14. Within urban growth areas (RCW 36.70A.110), the Department of Ecology may grant relief from use and development regulations of this program when:

    a. A shoreline restoration project causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;

    b. The proposed relief meets specific criteria in RCW 90.58.580; and

    c. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the City may provide a copy of a complete application to Ecology along with the applicant's request for relief.

15. Developments permitted in the Aquatic Shoreline Designation along the Columbia River shall be sited waterward of -15 feet CRD unless shallow water habitat will be created as mitigation.

5.2 Archeological, Cultural and Historic Resources

1. All shoreline uses and development shall comply with the applicable requirements of VMC 20.710, Archaeological Resource Protection.

2. When a shoreline use or development is in an area known or likely to contain archaeological artifacts and data, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance of any shoreline permit or approval including a statement of exemption. Work may not begin until the inspection and evaluation have been completed and the City has issued its permit or approval.

3. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the City, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes shall be notified of the discovery. A stop-work order will be issued. The shoreline permit will be temporarily suspended. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition for resumption of development activities. Development activities may resume only upon receipt of City approval.

4. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding

to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.

5.3 Critical Areas Protection

5.3.1 General Provisions

1. In addition to the provisions of this section, critical areas (fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands) located within shoreline jurisdiction and their buffers are regulated and protected by Chapter 5A, VMC 20.740, Critical Areas Protection as modified for consistency with the Act and this Program. All shoreline development shall comply with VMC 14.26, Water Resources Protection.

2. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with this Program whether or not a shoreline permit or written statement of exemption is required.

3. Any allowed use, development, or activity affecting a critical area proposed on a parcel located in the shoreline jurisdiction, whether or not exempt from obtaining a shoreline substantial development permit, shoreline conditional use, or shoreline variance, shall be regulated under the provisions of this Program.

4. Shoreline uses and developments and their associated structures and equipment shall be located, designed and operated using best management practices to protect critical areas.

5. The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:

    a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.

    b. Minimizing unavoidable 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. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.

    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. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.

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

6. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

5.4 Public Access

1. Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the applicant demonstrates public access is not feasible due to one or more of the provisions of Section 5.4.2 (a-e). Where feasible, such projects shall incorporate ecological restoration.

2. Consistent with constitutional limitations, provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than five (5) parcels), unless this requirement is clearly inappropriate to the total proposal. Public access will not be required where the applicant demonstrates one or more of the following:

   a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

   b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

   c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;

   d. Significant environmental impacts that cannot be mitigated will result from the public access; or

   e. Significant undue and unavoidable conflict between public access requirements and the proposed use and/or adjacent uses would occur, provided that the applicant has first demonstrated and the City determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:

      i. Regulating access by such means as maintaining a gate and/or limiting hours of use;

      ii. Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazings, hedges, landscaping); and

iii. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.

3. Public access sites shall be connected to barrier free route of travel and shall include facilities based on criteria within the within the Americans with Disabilities Act Accessibility guidelines.

4. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.

5. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.

6. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity.

7. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.

8. 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, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.

9. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

10. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

5.5 Restoration

1. Restoration of shoreline ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this Program and consistent with other City programs (see Section 6.4.4). Implementation of restoration projects on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.

2. Impacts to shoreline ecological functions shall be fully mitigated. Such mitigation may include elements from the Shoreline Restoration Plan, where appropriate.

3. Elements of the Shoreline Restoration Plan may also be implemented in any shoreline designation to improve shoreline ecological function.

4. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects.

5. Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:

    a. Riparian soil conditions;

    b. In-stream fish habitats; and

    c. Healthy aquatic and terrestrial food webs.

5.6 Site Planning and Development

5.6.1 General

1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation and shall comply with VMC 14.24, Erosion Prevention & Sediment Control and VMC 14.25, Stormwater Control.

2. Development shall be designed and land disturbing activities conducted to avoid impacts to healthy trees such that they are likely to become hazard trees.

3. Impervious surfaces shall be minimized to the extent feasible so as not to jeopardize public safety. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized through the use of alternative surfaces where feasible.

4. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be provided with safe and convenient circulation facilities.

5. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.

6. Parking, storage, and non-water dependent accessory and appurtenant structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use.

7. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.

8. Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.

9. Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.

10. Exterior lighting shall be designed, shielded and operated to:

    a. Avoid illuminating nearby properties or public areas;

    b. Prevent glare on adjacent properties, public areas or roadways;

    c. Prevent land and water traffic hazards; and

    d. Reduce night sky effects to avoid impacts to fish and wildlife.

11. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.

12. A use locating near a legally established aquaculture enterprise, including an authorized experimental project, shall demonstrate that such use would not result in damage to or destruction of the aquaculture enterprise, or compromise its monitoring or data collection.

5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall comply with VMC 14.24, Erosion Prevention & Sediment Control; 14.25, Stormwater Control; and VMC Chapter 17.12, International Building Code.

2. Clearing, grading, fill, and excavation activities shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.

3. Clearing and grading shall not result in changes to surface water drainage patterns that adversely impact adjacent properties.

4. Developments shall comply with the VMC 14.24, Erosion Prevention & Sediment Control during construction and shall ensure preservation of native vegetation for bank stability. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.

5. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved. Peat bogs and stands of mature trees are examples of such habitat.

6. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.

7. Any fill activity shall comply with the fill provisions of VMC Chapter 17.12. Fill shall consist only of clean materials.

8. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.

9. Fills shall be designed and placed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.

10. Fills must protect shoreline ecological functions, including channel migration processes.

11. Fill waterward of OHWM shall only be allowed as a conditional use, and then only when it is necessary:

    a. To support a water-dependent or public access use;

    b. For habitat creation or restoration projects;

    c. For remediation of contaminated sediments as part of an interagency environmental clean-up plan;

    d. For disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Washington Department of Natural Resources;

    e. For expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible;

    f. For a mitigation action;

    g. For environmental restoration; or

    h. For a beach nourishment or enhancement project.

12. In the Columbia River, fills shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless shallow water habitat will be created as mitigation.

13. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.

14. Upon completion of construction, remaining cleared areas shall be replanted with native species on the City's Native Plant List available from the Shoreline Administrator. Replanted areas shall be maintained such that within three (3) years' time the vegetation is fully re-established.

5.6.3 Building Design

1. Non-single family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.

2. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

3. Façade treatments, mechanical equipment and windows in structures taller than two (2) stories, shall be designed and arranged to prevent bird collisions using the best available technology. Single-family residential structures are exempt from this provision.

4. Interior and exterior structure lighting shall be designed, shielded, and operated to:

    a. Avoid illuminating nearby properties or public areas;

    b. Prevent glare on adjacent properties, public areas or roadways;

    c. Prevent land and water traffic hazards; and

    d. Reduce night sky effects to avoid impacts to fish and wildlife.

5. Accessory uses, including parking, shall be located as far landward as possible while still serving their intended purposes.

5.7 Vegetation Conservation

1. Existing native vegetation within shoreline jurisdiction shall be retained and allowed to grow naturally in the riparian area.

2. Removal of native vegetation outside the riparian area shall be avoided. Where removal of native vegetation cannot be avoided, it shall be minimized and mitigated to result in no net loss of shoreline ecological functions. Lost functions may be replaced by enhancing other functions provided that no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall be provided consistent with an approved mitigation plan. See Chapter 5A, 20.740.030(B)(1)(f) on maintaining fire-defensible space.

3. If non-native vegetation is removed, it shall be replaced with native vegetation within the shoreline jurisdiction.

4. Development shall be located to avoid clearing and grading impacts to more mature or multi-storied plant communities and to retain habitat connectivity.

5. Vegetation (such as a mature stand of trees) that cannot be replaced or restored within twenty (20) years shall be preserved.

6. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.

7. Topping trees is prohibited.

8. Pruning of trees which are not hazard trees is allowed in compliance with the National Arborist Association pruning standards, and is limited to:

    a. Removal of no more than twenty-five (25) percent of the limbs of any single tree within a given five-year (5-year) period; and

    b. No more than twenty-five (25) percent of canopy in a single stand of trees may be removed in a given five-year (5-year) period.

9. Hazard trees are regulated by VMC 20.770 and 17.14.

10. Natural features such as snags, stumps, logs or uprooted trees, which support fish and other aquatic systems, do not intrude on the navigational channel or threaten public safety, and existing structures and facilities, shall be left undisturbed.

11. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.

12. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to:

    a. Commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which the City has authority; or

    b. Flood control levees required to be kept free of vegetation that damages their structural integrity.

5.8 Views and Aesthetics

5.8.1 Visual Access

1. Visual access shall be maintained, enhanced, and preserved as appropriate on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark, and other view corridors.

2. Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.

3. No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines unless overriding considerations of the public interest will be served. The Shoreline Administrator may require a view analysis including view corridors, view profiles, and vertical profiles from various locations to determine if shoreline views will be obstructed.

4. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.

5. Clearing or pruning to preserve or create views shall be allowed as follows:

   a. When shoreline stability and shoreline ecological functions are maintained; and

   b. The applicable standards in Sections 5.6 and 5.7 are met.

5.9 Water Quality and Quantity

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.

2. All shoreline development shall comply with the applicable requirements of the VMC Chapter 14.24, Erosion Prevention & Sedimentation Control; 14.25, Stormwater Control; and 14.26, Water Resources Protection.

3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.

4. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with VMC 14.26. Potentially harmful materials shall be maintained in safe and leak-proof containers.

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5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.
6. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.
7. Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with VMC 14.26.
8. Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

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CHAPTER 5A GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS CONTINUED:

CRITICAL AREAS REGULATIONS

All uses and development activities in shoreline jurisdiction shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter 6. All shoreline development shall comply with VMC 14.26, Water Resources Protection.

Vancouver WA Zoning Ordinance

Chapter 20.740

CRITICAL AREAS PROTECTION

As Modified for Application in Shoreline Jurisdiction

Sections:

20.740.010 Purpose
20.740.020 General Provisions
20.740.030 Applicability and Exemptions from Requirement to Obtain Permit
20.740.040 Approval Process
20.740.050 Submittal Requirements
20.740.060 Approval Criteria
20.740.070 Minor Exceptions
20.740.080 Reasonable Use Exceptions
20.740.090 Unauthorized Critical Areas Alterations and Enforcement
20.740.100 Habitats of Local Importance
20.740.110 Fish and Wildlife Habitat Conservation Areas
20.740.120 Frequently Flooded Areas
20.740.130 Geologic Hazard Areas
20.740.140 Wetlands

Section 20.740.010 Purpose

A. The purpose of this chapter is to designate and protect ecologically sensitive and hazardous areas (critical areas) and their functions and values, while also allowing for reasonable use of property.

B. As mandated by the Growth Management Act (GMA) (RCW 36.70A), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Critical aquifer recharge areas area covered in VMC 14.26.

C. This chapter implements the goals and policies of the Vancouver Comprehensive Plan, 2003-2023 as amended, under the Washington Growth Management Act and other related state and federal laws.
(M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.020 General Provisions

A. No Net Loss of Functions

Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure no net loss of functions and values means no net loss of functions. The beneficial functions 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; and wave attenuation. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. Relationship to Other Regulations

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the City.

2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.

3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.

4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.

5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval [HPA] permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, or National Pollution Discharge Elimination System permits). The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of a Critical Areas Permit. Such permits shall be obtained prior to issuance of permits for development, construction or site disturbance except under the circumstances set forth in VMC 20.740.040(J).

C. Jurisdiction

1. All areas within the City meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.

2. Watersheds (VMC 20.150) are those most recently identified and mapped by Clark County ~~Public Works~~on Maps Online (www.clark.wa.gov). Watershed maps are available from the ~~Planning Official~~Shoreline Administrator. Burnt Bridge Creek, Columbia Slope, ~~and~~ Vancouver Lake/Lake River, and Lacamas Creek are the primary watersheds in Vancouver.

D. Warning and Disclaimer of Liability

The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The City

assumes no liability if these established standards prove to be insufficient protection.
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.030 Applicability and Exemptions from Requirement to Obtain Permit

A. Applicability

1. Unless ~~exempted [VMC 20.740.030(B)]~~ listed in VMC 20.740.030(B)(2) the provisions of this chapter shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the City located within a critical area or buffer or on a site containing a critical area or buffer including single-family residential lots platted prior to 04/29/05 and developments such as play structures that require no other permits.

2. The provisions of this chapter shall apply whether or not a permit or authorization is required.

3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation from or application of chemicals harmful to fish and wildlife within 25 feet of wetlands, ponds, lakes, streams or rivers) except as consistent with the requirements of this chapter.

4. A Critical Areas Permit-will not be issued for development affecting critical areas in shoreline jurisdiction. The Critical Areas Permit requirements of this chapter shall be incorporated into a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or Shoreline Statement of Exemption as applicable, and the applicable shoreline permit shall be obtained prior to undertaking any activity or development regulated by this chapter unless listed in VMC 20.740.030(C). ~~The Critical Areas Permit required pursuant to this chapter shall be obtained prior to undertaking any activity regulated by this chapter, unless exempted [VMC 20.740.030(B)].~~

B. ~~Exemptions from Requirement to Obtain Permit~~ Activities for which a Statement of Exemption is Required

1. ~~Activities for which a Statement of Exemption is required.~~ Applicants for the ~~exempt~~ activities listed in VMC 20.740.030(B)(1)(a-~~e~~f) shall first obtain a written Statement of Exemption from securing a Critical Areas Permit, prior to undertaking any development activity. This process verifies that the action is exempt from the permitting process of the Critical Areas Ordinance. However, all exempt activities are still subject to the policies and regulations of this Chapter. The ~~Planning Official~~Shoreline Administrator shall attach Critical Areas Ordinance conditions to the building permits and other permits and approval as necessary to enforce the policies and regulations of this chapter.

Stricken items are either shoreline exemptions (SMP Sections 2.1.1 and 2.3.2) or require a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance.

The request for the Statement of Exemption shall be in writing, on forms required by the ~~Planning Official~~Shoreline Administrator, and include the information required by the ~~Planning Official~~Shoreline Administrator.

The ~~Planning Official~~Shoreline Administrator shall issue a decision on a request for a Statement of Exemption ~~within 21 calendar days of receiving the request~~in accordance with the procedures of VMC 20.210.040, Type I Applications.

The following activities shall obtain a Statement of Exemption:

a. Development or clearing, outside areas of special flood hazards and other than tree removal, as minimally necessary to remodel an existing ~~structure~~single family residence, provided:

1. The activity will increase the footprint of structures including impervious surfaces by less than 500 square feet from the footprint size at the time of the adoption of this chapter; and

2. If the structure or impervious surface is within a critical area or buffer, the distance from the nearest structure or impervious surface to lakes, streams, rivers, wetlands or geological hazards is not decreased; and

3. All vegetation disturbed as a result of the development shall be replaced one-to-one, except trees shall be replaced using tree units derived from VMC 20.770, Tree Conservation. Native vegetation shall be used where feasible.

4. Impacts to critical areas and buffers shall be minimized and mitigated.

b. ~~Development activity on the portions of sites with existing structures or impervious surfaces which does not increase the impervious surface area within the Riparian Management Area or Riparian Buffer and which is not otherwise exempt under VMC 20.740.030(B), shall be exempt from the provisions of VMC 20.740.110 (Fish and Wildlife Habitat Conservation Areas). The applicant is encouraged to provide enhancement to the extent feasible. Such enhancement activities may include, but are not limited to, landscaping using native plants, additional treatment of stormwater as appropriate, and implementation of best management practices that would enhance habitat functions.~~

c. ~~Development activity covered by and in compliance with all the conditions of an approved subarea plan that contains:~~

1. ~~Baseline information on existing critical areas and their functions at the level of detail required for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA);~~

2. ~~An analysis of the impacts of full development at the level of detail required for an EIS under SEPA and in keeping with the plan; and~~

3. ~~Mitigation for those impacts consistent with the requirements of this chapter.~~

d. A fence may be installed in a critical area buffer (not in a critical area) where:

1. The fence is necessary for safety and security;

2. The property was developed prior to the effective date of VMC 20.740 (April 29, 2005);

3. The fence is designed and installed in a manner that protects the critical area and buffer functions and blends with the critical area environment.

e. ~~Development may be permitted on a site containing a critical area or buffer not also subject to state or federal permits where the Planning Official determines that the critical areas and buffers will be clearly avoided using the following procedures and criteria:~~

1. ~~The Planning Official has visited the site;~~

2. ~~The critical area(s) and buffer(s) has/have been identified in the field and clearly mapped by a qualified professional through an approved, limited-scope Critical Areas Report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location); except that for a single-family or duplex residential development on a property with a stream not regulated under the state Shoreline Management Act, its Riparian Management Area or Riparian Buffer, the Planning Official may accept an aerial photo overlain with 2' contour lines from the Clark County Digital Atlas with the required information drawn to scale by someone other than a qualified professional.~~

3. ~~The site plan and final plat show a development envelope within which all development activity will take place, and a note identifying the development envelope and its purpose is placed on the face of the site plan and the final plat;~~

4. ~~The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers. The maximum critical area and maximum buffer are the greatest that may be applied under any circumstances. (For example, under this chapter, the maximum wetland buffer that could be applied under any circumstance is 300'; the maximum Riparian Management Area is 100', and the maximum Riparian Buffer is 75' from the outer boundary of the Riparian Management Area).~~

f. Maintaining fire-defensible space around a structure to reduce fire hazards, involving regular maintenance of existing trees at least 6" diameter at breast height, grasses, and underbrush, not tree removal or other ground-disturbing or soil-destabilizing activities. Creating fire-defensible space (see VMC 20.740.040(I)) or undertaking other development requires a Critical Areas Permit under VMC 20.740.040(B)(1)(f) and could require other permits as well.

1. Pruning trees, grasses, and brush within a critical area or buffer to maintain fire-defensible space around a structure may be permitted when one or more of the following criteria is met:

a. The structure nearest the property line is within 30' of a slope of at least 25% (also designated as a landslide hazard area under this chapter);

b. The nearest structure is within 30' of a forested area;

c. The vegetation within 30' of the structure is comprised of less than 50% native species;

d. The vegetation within 30' of the structure is higher than 12";

e. Trees are crowded within 30' of the structure or overhanging the structure's roof;

f. The structure is located in an area designated by the Fire Marshal as a "Wildfire Safety Area."

2. When maintenance of a fire-defensible space is permitted, the following standards shall apply:

a. Trees may be pruned or limbed-up to mitigate a hazard, but trees may not be removed without a Critical Areas Permit and any other necessary permit(s) (See VMC 20.740.040(B)(1)(f) and .040(I) on creating fire-defensible space).

b. Grasses and underbrush shall be maintained between 8" and 12" in height.

c. Topping trees is prohibited.

d. Any debris from pruning shall be disposed of promptly and properly.

2. Activities ~~for which a Statement of Exemption is not required~~ Allowed without a Permit.

Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.

a. ~~Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:~~

1. ~~The emergency action uses reasonable methods to address the emergency.~~

2. ~~The emergency action must have the minimum possible impact to the critical area or its buffer.~~

3. ~~The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.~~

4. ~~Within 14 days the Planning Official shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the Planning Official determines that the action taken, or any part of the action taken was beyond the scope of an allowed emergency action, then enforcement provisions of VMC 20.740.090 shall apply.~~

5. ~~After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action shall apply for review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained in this chapter.~~

6. ~~Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the Planning Official and completed in a timely manner.~~

b. Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.

c. ~~Emergency or hazard tree removal (as defined in VMC 20.770) conducted so that critical area impacts are minimized.~~

d. Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers applied into or within 25 feet of water bodies) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.

e. Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation. The City of Vancouver's Noxious or Invasive Plants List and Native Plant Species List are available from the ~~Planning Official~~Shoreline Administrator.

f. Application of pesticides, herbicides, fungicides or fertilizers farther than 25 feet from any wetland, pond, lake, stream or river or in a manner specified in a valid permit.

g. State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.

h. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.

i. Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.

j. ~~Work necessary for land use submittals, such as surveys, soil sampling, percolation tests, and other related activities. In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.~~

k. ~~Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.~~

l. Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.

m. Existing and ongoing agriculture within fish and wildlife habitat conservation areas so long as livestock and application of pesticides, herbicides, fungicides and fertilizers are kept 25 feet from any water body.

n. Implementation of a state or federally approved restoration or enhancement project not related to any development project.

o. ~~Operation, repair and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, dikes, or levees or water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.~~

p. In areas with only ground shaking or liquidation hazards, repair or construction of roads, sidewalks or trails (except where there are structures), or water, sewer, stormwater, gas, power, cable, or fiber optic facilities shall be exempt from the ground shaking and liquidation permitting requirements.

q. ~~Public improvement projects located within impervious surface areas.~~

r. ~~Implementation of a city, state or federally approved stand-alone "critical area" creation project~~

~~that is not mitigation. A "Critical Area" created under these circumstances that would not otherwise have met the definition of that type of critical area is exempt from the provisions of this chapter. Also see the definition of "Wetlands" at VMC 20.150.~~

s. ~~Clearing vegetation within the floodplain but outside the Riparian Management Area or Riparian Buffer (see VMC 20.740.040(B)(1)(f)).~~

t. ~~Clearing vegetation in critical areas that are only seismic hazard areas (see VMC 20.740.040(B)(1)(f)).~~

u. Maintenance, repair, and in-kind replacement of existing fences.
(M-3931, Amended, 11/02/2009, Sec 22-Effective 12/2/2009; M-3922, Amended, 07/06/2009, Sec 36; M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.040 Approval Process

A. Initial Critical Areas Determination Process

1. Pre-application Conference Required. Unless waived pursuant to VMC 20.210.080(B), prior to the City's consideration of any proposed activity not ~~found to be exempt~~ listed under ~~Exemptions [~~VMC 20.740.030(B), the applicant shall submit to the department a Pre-application Request Form and other required information pursuant to VMC 20.210.080. Provided, pre-application conferences shall not be required for proposed activities within only ground shaking or liquefaction areas.

The ~~Planning Official~~Shoreline Administrator shall review the submitted information, conduct a site inspection, review other information available pertaining to the site and the proposal, and make a determination as to whether a Critical Areas Permit is required.

a. Decision Indicators. The ~~Planning Official~~Shoreline Administrator shall use the following indicators whenever available, to assist in determining the need for a Critical Areas Permit:

1. Indication by the City's critical area location information of a critical area or buffer that may be impacted by the proposed activity;

2. Information and scientific opinions from appropriate agencies, including but not limited to the Washington Departments of Fish and Wildlife, Natural Resources, and Ecology;

3. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area or buffer.

b. Interpretation of Critical Area Boundaries. The ~~Planning Official~~Shoreline Administrator shall be authorized to interpret the exact location of the critical area boundary. Final designations shall be based on site conditions and other available data or information. A person who disagrees with the interpretation may appeal the interpretation pursuant to Section 20.255.020(D).

2. Pre-application Waiver. In the event that the ~~Planning Official~~Shoreline Administrator grants a pre-application waiver pursuant to VMC 20.210.080(B) the ~~Planning Official~~Shoreline Administrator shall either attach a Statement of Exemption, if applicable, or document in the pre-application waiver letter that a Critical Areas Permit is required.

3. Decision on Pre-application. The ~~Planning Official~~Shoreline Administrator shall make one of the

following decisions in the pre-application staff report:

a. Critical Areas Permit Not Required. If the ~~Planning Official~~Shoreline Administrator's analysis indicates that there is no critical area or buffer on the subject property, then the ~~Planning Official~~Shoreline Administrator shall determine that the initial critical area review is complete and that no further review is required. The ~~Planning Official~~Shoreline Administrator shall issue a Statement of Exemption and include it with the Pre-application report.

b. Critical Areas Permit Required. If the ~~Planning Official~~Shoreline Administrator determines that a critical area or its buffer may be located on the subject property, the ~~Planning Official~~Shoreline Administrator shall determine that a Critical Areas Permit is required, and shall indicate each of the critical area types to be addressed in the critical areas report.

4. Reconsideration of ~~Planning Official~~Shoreline Administrator's Initial Critical Area Determination. A determination may be reconsidered by the ~~Planning Official~~Shoreline Administrator if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

B. Final Critical Areas Determination Process

1. Type I Application. The following activities shall be processed as a Type I permit pursuant to VMC 20.210.040 except a pre-application conference shall be required unless waived pursuant to VMC20.210.080(B) or the activity is proposed within only a ground shaking or liquefaction hazard area:

a. New single-family and duplex residences, alterations to existing single-family and duplex residences, or new accessory structures located within a critical area or buffer, or on a property containing a critical area or buffer.

b. Application of pesticides, herbicides, fungicides or fertilizers within 25 feet of ponds, lakes, streams, rivers or wetlands.

c. Approval of agricultural activities within 25 feet of ponds, lakes, streams or rivers.

d. Critical Area restoration or enhancement projects not related to any development project; and establishment of mitigation banks.

e. Public improvement projects located entirely within the previously improved portion of the right-of-way.

f. Clearing vegetation within a critical area or buffer, including: (1) grading, uprooting or other activities that impair the soil stabilization function of vegetation in landslide hazard areas (VMC 20.740.130(C)(1)(c)); (2) removal of downed woody vegetation from wetlands, lakes, streams or rivers; and (3) removal of trees, grasses, or brush to create fire-defensible space (VMC 20.740.040(I)). ~~However, clearing vegetation within the area of special flood hazard outside of the Riparian Management Area and Buffer and in seismic hazard areas shall not require a permit (see VMC 20.740.030(B)(2)(s) and (t)).~~

g. Approval of ~~programmatic~~ recurring activity permits (VMC 20.740.040(H)) for activities within critical areas or buffers.

2. Other Application Types. All other activities proposed within any critical area or buffer shall be reviewed according to the procedures of the underlying land use application.

3. Review Procedure. The ~~Planning Official~~Shoreline Administrator shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of Title 20. The ~~Planning Official~~Shoreline Administrator's determination shall be based on the approval criteria of VMC 20.740.060. The Critical Areas Permit shall be valid for as long as the underlying land use permit or as otherwise specified by the ~~Planning Official~~Shoreline Administrator.

C. Notice on Title - Covenant and Tracts

1. Covenants. This section applies to all non-exempt projects that involve critical areas and buffers.

a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the City. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall "run with the land."

b. The applicant shall submit proof that the covenant has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.

2. Tracts. This section applies in addition to VMC 20.740.040(C)(1) to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The ~~Planning Official~~Shoreline Administrator may also apply this section to developments that involve platting on properties containing geologic hazard areas and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. See VMC 20.740.040(C)(2)(b) for exceptions.

a. The property owner shall place the subject critical areas and buffers in one or more non-developable tracts except when:

1. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or

2. The responsible official determines a tract is impractical.

b. When an exception in VMC 20.740.040(C)(2)(a) applies, residential lots may extend into the critical area(s) or buffer(s) provided:

1. The location of the outer perimeter of the critical area(s) and buffer(s) are marked in the field and approved by the ~~Planning Official~~Shoreline Administrator prior to the commencement of permitted activities and maintained throughout the duration of the permit.

2. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the ~~Planning Official~~Shoreline Administrator.

3. Permanent signs are posted at an interval of one per lot for single family residential uses or

at a maximum interval of 200', or as otherwise determined by the ~~Planning Official~~Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the ~~Planning Official~~Shoreline Administrator: "The area beyond this sign is a critical area or critical area buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

D. Financial Assurances

1. When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City shall require the applicant to provide security in a form and amount deemed acceptable by the City. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring).

2. The security shall be in the amount of 125% of the estimated cost of restoring the functions of the critical area that are at risk.

3. The security authorized by this section shall remain in effect until the City determines, in writing, that the standards for which the security is required for have been met. Bonds or other security shall be held by the City for a minimum of five (5) years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.

6. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.

7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

E. Critical Area Inspections. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

F. Reconsideration of ~~Planning Official~~Shoreline Administrator's determination. If, within five (5) days following the date of mailing of a Critical Areas Permit, new information relevant to the decision is made available, any party may request that the decision be reconsidered. If the new information is found to be substantial and relevant to the critical area review, the ~~Planning Official~~Shoreline Administrator may reopen the critical area review and make a new determination based on the revised report. The Critical Areas Permit shall not be considered final and subject to appeal until the decision on the request for reconsideration, if applied for, has been issued.

G. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based

on the requirements of this chapter may be appealed according to VMC 20.110.130.

H. ~~Programmatic~~ Recurring Activity Permits. The purpose of a ~~programmatic~~ recurring activity permit is to provide for on-going, routine maintenance, operation, or repair activities on sites containing critical areas or buffers (1) so as not to impair an agency's or business's ability to operate effectively and efficiently; and (2) at the same time protect critical areas and buffers in accordance with this chapter.

1. In addition to the submittal requirements in VMC 20.740.050, applicants for a ~~programmatic~~ recurring activity permit shall submit a proposed management plan. The management plan shall contain:

a. A narrative explaining the need for the ~~programmatic~~ recurring activity permit.

b. A list of the on-going, routine, maintenance, operation, or repair activities that impact or potentially impact critical areas and buffers.

c. A description of the potentially impacted critical area and buffer functions.

d. Proposed measures and standards for avoiding impacts to critical area and buffer functions and where unavoidable, minimizing and mitigating those impacts to achieve no net loss of functions.

e. A training program ensuring that all employees, contractors, and individuals under the supervision of the applicant who are involved in permitted activities understand and perform in accordance with the terms of the permit.

2. A ~~programmatic~~ recurring activity permit may be approved for up to seven years. The permit duration may be tied to other permits or processes.

3. Every 2 years within 30 days of the anniversary of permit issuance for the duration of the permit, the applicant shall submit a report to the ~~Planning Official~~Shoreline Administrator summarizing activities undertaken under the ~~programmatic~~ recurring activity permit including any issues to be resolved. The report shall also document the training provided in accordance with VMC Section 20.740.040H(1)(e).

4. The applicant or the City may initiate an amendment to the ~~programmatic~~ recurring activity permit to respond to permit performance issues. An amendment shall be considered through a Type 1 process following a pre-application conference.

5. An application for reauthorization of a ~~programmatic~~ recurring activity permit shall be submitted at least 90 days prior to the date the current permit expires. ~~Programmatic~~ Recurring activity permits may be reauthorized through a Type 1 process following a required pre-application conference. Permit standards and conditions may be modified to conform to the current codes, policies, and standards or based on past performance. Where the review of the reauthorization application will extend beyond the expiration date of the current ~~programmatic~~ recurring activity permit, the ~~Planning Official~~Shoreline Administrator may extend the duration of the current permit for 30 days at a time, not to exceed 180 days.

I. Trees, grasses, and brush in a critical area or buffer may be pruned or removed to create fire-defensible space around a structure (see VMC 20.740.040(B)(1)(f)) when one or more of the criteria in VMC 20.740.030(B)(1)(f)(1)(a-f) is met. When creating fire-defensible space is permitted, the following standards shall apply:

1. Grasses and underbrush shall be maintained between 8” and 12” in height.

2. Trees may be pruned, limbed-up, or removed. Topping trees is prohibited.

3. Removal of vegetation in a landslide hazard area is prohibited during the wet season (November 1st to May 1st). The area must be immediately replanted to ensure soil stability. The property owner shall maintain the newly planted vegetation to ensure its survival.

4. Any debris from vegetation removal shall be disposed of promptly and properly.

5. Required replantings shall be of native, fire-resistant species. A list of native, fire-resistant species is available from the ~~Planning Official~~Shoreline Administrator.

J. Development may be permitted on a site containing a critical area(s) or buffer(s) which may also be subject to state or federal permits prior to all necessary state or federal permits being obtained when all of the following criteria are met:

1. A phased master plan is submitted under VMC 20.260 or .268 as appropriate, demonstrating:

a. how the maximum critical area(s) and maximum buffer(s) will be clearly avoided until all local, state, or federal permits are obtained. “Clearly avoided” means:

1. The Shoreline Administrator has visited the site;

2. The critical area(s) and buffer(s) has/have been identified in the field and clearly mapped by a qualified professional through an approved, limited-scope Critical Areas Report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location); except that for a single-family or duplex residential development on a property with a stream not regulated under the state Shoreline Management Act, its Riparian Management Area or Riparian Buffer, the Shoreline Administrator may accept an aerial photo overlain with 2’ contour lines from the Clark County Digital Atlas with the required information drawn to scale by someone other than a qualified professional.

3. The site plan and final plat show a development envelope within which all development activity will take place, and a note identifying the development envelope and its purpose is placed on the face of the site plan and the final plat;

4. The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers. The maximum critical area and maximum buffer are the greatest that may be applied under any circumstances. (For example, under this chapter, the maximum wetland buffer that could be applied under any circumstance is 300’; the maximum Riparian Management Area is 100’, and the maximum Riparian Buffer is 75’ from the outer boundary of the Riparian Management Area).

b. how each phase could be permitted as an individual project not relying on development of any other phases in any way;

c. how each phase could be developed regardless of whether any or all of the pending state or federal permits are ever obtained;

d. no net loss of critical area functions for each phase and for the project as a whole, regardless of whether any or all of the pending state or federal permits are ever obtained.

2. Development is permitted only in the area that clearly avoids (VMC 20.740.040(J)(1)(a)(1-4)) the maximum critical area(s) and buffer(s).
(M-3959, Amended, 07/19/2010, Sec 37-Effective 8/19/2010; M-3931, Amended, 11/02/2009, Sec 23-Effective 12/2/2009; M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.050 Submittal Requirements

A. Preparation by Qualified Professional. Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.

B. General Critical Areas Report Contents. At a minimum, the Critical Areas Report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

2. A copy of the site plan for the development proposal including:

a. A map to scale depicting critical areas, buffers, the channel migration zone if applicable, the development proposal, and any areas to be cleared; and

b. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and

c. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site and the channel migration zone if applicable. The digital map(s) must be based on the same coordinate system as the Clark County GIS database: state plane coordinates using the NAD 1983 datum and the Washington South zone (also referred to as the FIPS Zone 4602). The digital map(s) must also conform to other Clark County GIS digital mapping standards and specifications available from the ~~Planning Official~~Shoreline Administrator or directly from Clark County's Department of Assessment and GIS.

3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

4. Identification and scientific characterization of all critical areas and buffers. The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;

5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;

6. A written response to each of the approval criteria in VMC 20.740.060;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with VMC 20.740.050(F) Mitigation Plan Requirements.

C. Additional Information. Any additional information required for the specific critical areas and buffers as specified in VMC 20.740.110 Fish and Wildlife Habitat Conservation Area, VMC 20.740.120 Frequently Flooded Areas, VMC 20.740.130 Geologic Hazard Areas, and VMC 20.740.140 Wetlands.

D. Other Reports or Studies. Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the ~~Planning Official~~Shoreline Administrator. Provided, the site conditions shall not have changed since the earlier report or study was completed.

E. Critical Areas Report – Modifications to Requirements

Modifications to Required Contents. The applicant may consult with the ~~Planning Official~~Shoreline Administrator prior to or during preparation of the Critical Areas Report to obtain City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The ~~Planning Official~~Shoreline Administrator may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.

F. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. Detailed Construction Plans. The mitigation plan shall include descriptions of the mitigation proposed, such as:

a. The proposed construction sequence, timing, and duration;

b. Grading and excavation details;

c. Erosion and sediment control features;

d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

e. Measures to protect and maintain plants until established; and

f. A functional assessment of the proposed mitigation to ensure no net loss of shoreline ecological functions.

These written descriptions shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

2. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. For example, ten (10) years or more of monitoring are typically needed for forested wetlands or scrub-shrub communities.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally-occurring critical area when processing a future development permit application(s).

3. Adaptive Management. 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.

(M-3931, Amended, 11/02/2009, Sec 24-Effective 12/2/2009; M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.060 Approval Criteria

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site. Mitigation shall occur in the following order of priority:

A. Avoid Impacts. The Applicant shall first ~~seek to~~ avoid all impacts that degrade the functions and values of (a) critical area(s) by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.

B. Minimize Impacts. ~~Where avoidance is not feasible, t~~The applicant shall minimize the impacts of the activity 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.~~and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance.~~ The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.

C.Rectify Impacts. The applicant shall rectify the impacts by repairing, rehabilitating, or restoring the affected environment.

D. Reduce Impacts. The applicant shall reduce or eliminate the impacts over time by preservation and maintenance operations;

E. Compensatory Mitigation. The applicant shall compensate for the ~~unavoidable~~ impacts by replacing, enhancing, or providing substitute resources or environments ~~each of the affected functions to the extent feasible~~. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.

F. Monitor Impacts and Mitigation. The applicant shall monitor the impacts and the compensation projects and take appropriate corrective measures.

G. Type and Location of Mitigation. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.

H. In addition to mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

I. No Net Loss. The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

J. Consistency with General Purposes. The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

K. Performance Standards. The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas VMC 20.740.110, Frequently Flooded Areas VMC 20.740.120, Geologic Hazard Areas VMC 20.740.130, and Wetlands VMC 20.740.140, as applicable.
(M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.070 Minor Exceptions

A. Minor Exceptions Authorized. Minor exceptions shall be processed in accordance with the Shoreline Variance provisions of SMP Sections 2.6 and 7.4.5. Minor exceptions from the NFIP development standards of VMC 20.740.120, Frequently Flooded Areas are prohibited (VMC 20.740.120(D)). ~~of no greater than 10% from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in VMC 20.210.050, Type II Applications. Minor exceptions shall not be combined with buffer averaging [(20.740.140(C)(1)(b)(2)] or buffer reduction (20.740.140(C)(1)(b)(3)].~~

B. ~~Minor Exception Criteria. A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria.~~

1. ~~Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or district;~~

2. ~~The unusual conditions or circumstances do not result from the actions of the applicant;~~

3. ~~Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;~~

4. ~~The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;~~

5. ~~The minor exception requested is the least necessary and no greater than 10% of the subject standard to relieve the unusual circumstances or conditions identified in Subsection VMC 20.740.070(B)(1) above;~~

6. ~~The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this Title, this chapter, and the underlying zoning district;~~

7. ~~Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to~~

~~the extent feasible in accordance with the provision of this chapter;~~

8. ~~Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;~~

9. ~~The proposed development complies with all other applicable standards.~~

C. ~~Conditions May Be Required. In granting any minor exception, the city may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.~~

D. ~~Time Limit. The city shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.~~

E. ~~Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.~~
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.080 Reasonable Use Exceptions

A. Exception Request and Review Process.

If the application of this chapter would deny all reasonable economic use of the subject property, the applicant may request a Shoreline Variance in accordance with Sections 2.6 and 7.4.5.~~city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section. Exceptions from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in VMC 20.210.060, Type III Applications.~~

~~An application for a reasonable use exception shall be made to the city and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C). The Planning Official~~Shoreline Administrator ~~shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC 20.740.080(B).~~

B. ~~Reasonable Use Review Criteria. The city shall approve applications for reasonable use exceptions when all of the following criteria are met:~~

1. ~~The application of this chapter would deny all reasonable economic use of the property;~~

2. ~~No other reasonable economic use of the property has less impact on the critical area;~~

3. ~~The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;~~

4. ~~The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;~~

5. ~~The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;~~

6. ~~The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.~~

7. ~~The proposal is consistent with other applicable regulations and standards.~~

C. ~~Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.~~

1. (M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.090 Unauthorized Critical Areas Alterations and Enforcement

A. Enforcement.

1. It shall be unlawful to violate the provisions of VMC Chapter 20.740. ~~Any violation of this chapter shall constitute a public nuisance.~~

2. ~~VMC Title 22 shall provide the enforcement provisions for VMC Chapter 20.740. VMC Title 22 may impose any of the remedies, requirements or corrective actions contained in this chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title 22, the city may also seek injunctive or other relief from any court of competent jurisdiction.~~ SMP Chapter 7 shall provide the enforcement provisions for Chapter 5A, VMC Chapter 20.740.

3. ~~The city shall deposit all monetary penalties collected pursuant to VMC Title 22 into the Critical Areas Restoration Fund. Accrued monies in the Critical Areas Restoration Fund shall be used to protect and restore critical areas within the City of Vancouver.~~

B. Requirement for Restoration Plan. In the event the City initiates enforcement action or files a complaint in court, the City may require a restoration plan consistent with the requirements of this chapter and Chapter 7. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in VMC 20.740.090(C). The ~~Planning Official~~Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. Minimum Performance Standards for Restoration.

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;

b. The soil types and configuration prior to violation shall be replicated;

c. The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the ~~Planning Official~~Shoreline Administrator). If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(B)~~(1)~~(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the ~~Planning Official~~Shoreline Administrator; and

d. Information demonstrating compliance with the requirements in VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the ~~Planning Official~~Shoreline Administrator.

2. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;

b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;

c. Drainage patterns shall be restored to those existing before the alteration; and

d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. If the critical area or buffer is on a site that meets the criteria of VMC 20.740.030(B)~~(1)~~(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the ~~Planning Official~~Shoreline Administrator.

D. Site Investigations. The ~~Planning Official~~Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.100 Habitats of Local Importance

A. Eligibility and Approval Criteria. Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City. Criteria for designation include all of the following:

1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.

2. The area is sufficient in size to support the species or habitat functions for which it is designated.

3. The designation will not compromise the ability of the City to achieve the goals of the Comprehensive Plan.

4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.

B. Designation Process. Habitats of Local Importance may be proposed by the property owner or the City

and shall be designated according to a Type IV legislative procedure (VMC 20.210.070).
(M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.110 Fish and Wildlife Habitat Conservation Areas

A. Designation.

1. Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)). There are established in the City the following identified Fish and Wildlife Habitat Conservation Areas:

a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the ~~Planning Official~~Shoreline Administrator.

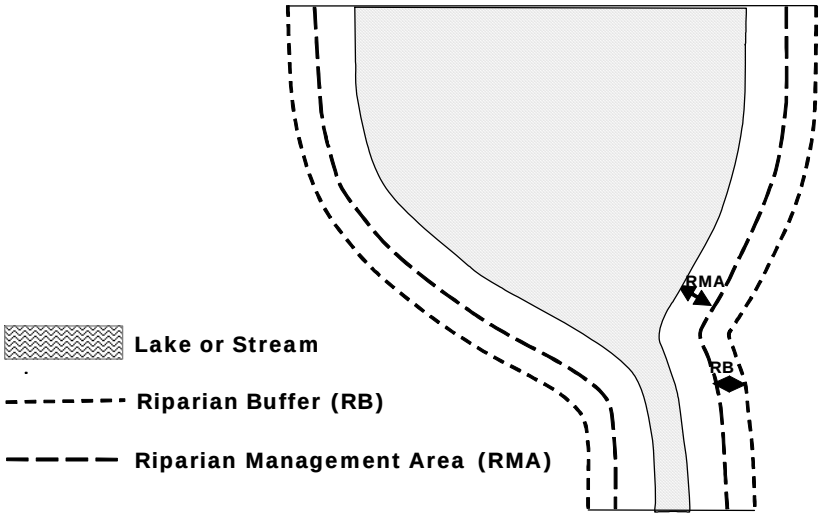
b. Priority Habitats and areas associated with Priority Species. Current lists of Priority Habitats and Species and applicable Management Recommendations promulgated by the Washington Department of Fish and Wildlife are available from the ~~Planning Official~~Shoreline Administrator.

c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.

d. Habitats of Local Importance. Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City in accordance with VMC 20.740.100.

e. Riparian Management Areas and Riparian Buffers. The regulated areas include the land from the ordinary high water mark to a specified distance as measured horizontally in each direction. The Riparian Management Area is adjacent to the lake, stream or river, and the Riparian Buffer is adjacent to the Riparian Management Area.

Figure 20.740.110-1
Riparian Management Area and Riparian Buffer



(1) The Riparian Management Areas and Riparian Buffers are as follows:

TABLE 20.740.110-1
RIPARIAN MANAGEMENT AREAS & BUFFERS

DNR /Vancouver Stream Type	Description	Land Use Intensity[1]	RMA	RB[2]
S	Shorelines-of-the-State	High/Moderate/Low	100’	75’
F	Lakes, streams, and rivers that contain fish habitat	High/Moderate/Low	100’	75’
Np or Ns, large	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are wider than 5’ between the ordinary high water marks on the banks.	High/Moderate/Low	100’	75’
Np, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5’ wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are perennial	High/Moderate Low	100’ 100’	50’ 25’
Ns, small, connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat; (3) are not more than 5’ wide; (4) do connect via surface water to another stream or river (whether perennial or seasonal) even if the connection traverses a culvert, wetland, or other feature; and (5) are seasonal	High/Moderate Low	100’ 100’	25’ 0’
Np or Ns, small, not connected	Streams and rivers that: (1) are not shorelines-of-the-state; (2) do not contain fish habitat;	High/Moderate/Low	25’	0’

	(3) are not more than 5' wide; (4) do not connect via surface water to another stream or river; and (5) are either perennial or seasonal			

[1]Refer to Table 20.740.140-1.
[2] The RB is the distance shown or the full extent of the 100-year floodplain, whichever is farther landward.

(A) When impervious surfaces from previous development completely functionally isolate the Riparian Management Area or the Riparian Buffer from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the ~~Planning Official~~Shoreline Administrator may adjust the regulated riparian area to reflect site conditions and sound science.

2. Habitat Location Information. Information on the approximate location and extent of Habitat Conservation Areas is available from the ~~Planning Official~~Shoreline Administrator.

The habitat location information is based on:

a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Washington Department of Fish and Wildlife Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHIAP);

c. Washington Department of Natural Resources Official Water Type Reference Maps;

d. City-designated Habitats of Local Importance;

e. Other information acquired by the City.

B. Additional Critical Areas Report Requirements

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using the Clark County Habitat Conservation Ordinance Riparian Habitat Field Rating Form or another habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

a. In addition to the standards of (VMC 20.740.050F), where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

1. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)

2. Large woody debris surveys

3. Streamflow monitoring

4. Water quality monitoring to detect pollution impacts

5. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of VMC 20.740.050:

a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or

b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and

c. How the proposal meets the Riparian Management Area width averaging standard (VMC 20.740.110(C)(2)(c)); and

d. How the proposal will not adversely affect the connectivity of habitat functions.

C. <u>Performance Standards</u>

1. General.

a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria (VMC 20.740.060). Functions include:

1. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and

2. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Area or Buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.

c. If development or clearing activity is within a Priority Habitat and Species area the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:

1. The development or clearing results in no net loss of habitat function on the site; and

2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.

d. Signs for Fish and Wildlife Conservation Areas

1. Temporary markers. The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the ~~Planning Official~~Shoreline Administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

2. Permanent signs. Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the ~~Planning Official~~Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the ~~Planning Official~~Shoreline Administrator: "The area beyond this sign is a fish and wildlife habitat conservation area. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. Riparian Management Areas and Riparian Buffers.

In addition to the standards in VMC 20.740.060 and VMC 20.740.110(C)(1) the standards in this section shall apply in Riparian Management Areas and Buffers.

a. Riparian Buffer. Development or clearing activity may occur in the Riparian Buffer, providing that:

1. The planned mitigation results in no net loss of riparian habitat functions on the site, and

2. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of VMC 20.740.110(C)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.

b. Riparian Management Area. No development or clearing activity is allowed within the Riparian Management Area unless such activity is:

1. A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or

2. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

3. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

c. Modification of the Riparian Management Area Width. The width of the Riparian Management Area may be modified (See VMC 20.170.080(B)(1)) if all the following are met:

1. The square footage of the area meeting the performance standards of the Riparian

Management Area (VMC 20.740.110(C)(2)(b)) is not reduced; and

2. There is no net loss of functions as a result of the averaging; and

3. Notwithstanding any other provision, the reduction of the Riparian Management Area width at any location may be no greater than 25%.

d. Owners of developed properties within the Riparian Management Area or Riparian Buffer are encouraged to enhance the area by planting native plants and to apply integrated pest management.

e. Agricultural activities in the Riparian Management Area or Riparian Buffer are encouraged to develop farm conservation plans.
(M-3931, Amended, 11/02/2009, Sec 25-Effective 12/2/2009; M-3844, Amended, 10/01/2007, Sec 2; M3692, Added, 02/28/2005, Sec 2)

Section 20.740.120 Frequently Flooded Areas

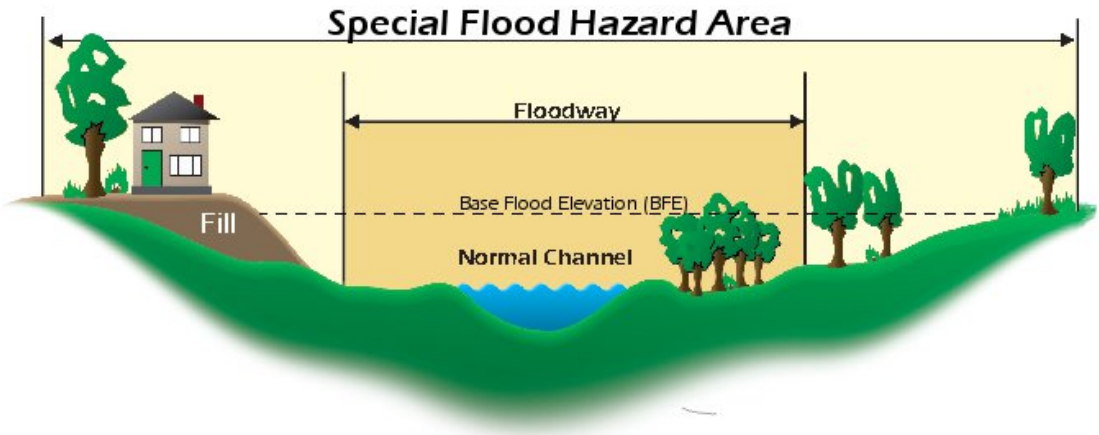
A. Designation.

Frequently Flooded Areas are the *Areas of Special Flood Hazards* identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA), respectively, in scientific and engineering reports entitled, *Flood Insurance Study: Clark County, Washington and Incorporated Areas, Volumes 1 and 2 (Numbers 53011CV001A and 53011CV002A, respectively), effective September 5, 2012*~~and any revisions thereto,~~ with accompanying Flood Insurance Rate Maps (FIRMs and their digital version, DFIRMs) ~~and any revisions thereto~~. The Flood Insurance Study (FIS), FIRMs and DFIRMs are available from the ~~Planning Official~~Shoreline Administrator, 415 West 6th Street, Vancouver, WA 98660. (See VMC 20.150.040 Meanings of Specific Words and Terms for definitions for *Areas of Special Flood Hazards, Floodplain, Floodway, and Frequently Flooded Areas.)*

Portions of channel migration zones located outside areas of special flood hazards are not designated as frequently flooded areas.

When base flood elevation (BFE) data has not been provided in frequently flooded areas (Zone A), the ~~Planning Official~~Shoreline Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of this chapter. This best available information for flood hazard area identification shall be the basis for regulation until a new FIRM/DFIRM is issued.

Figure 20.740.120-1
Frequently Flooded Areas/Areas of Special Flood Hazards



Adapted from *Floodplain Management: A Local Administrator's Guide to the National Flood Insurance Program, Fifth Edition,* FEMA Region 10.

B. Additional Critical Areas Report Requirements.

In addition to the Critical Areas Report requirements in VMC 20.740.050, the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.

1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.

2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.

3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for non-residential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.

4. Location of the channel migration zone. See the Clark County Shoreline Inventory & Characterization Report, Volume 1, Lewis and Salmon-Washougal Watersheds and Rural Areas, Map 27, Potential Channel Migration Zone (CMZ) Areas for general locations of channel migration zones. The actual location of the channel migration zone on site must be identified by a qualified professional and mapped in accordance with the submittal requirements of VMC 20.740.050.

5. Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety. When the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120A), the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.

6. Certification, documentation, and demonstration by a qualified professional of how the applicable standards of VMC 20.740.120(C) will be met. To support the "no rise" analyses required in VMC 20.740.120(C)(1)(b), the documentation required in the most recently updated or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator's Guide to the National Flood Insurance Program* shall be submitted.

C. Performance Standards.

Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, dikes, levees, or water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facilities) in all areas of special flood hazards and channel migration zones (CMZs). Additional restrictions apply in the floodway.

1. Encroachments. (See Section 5.6.2.)

a. Designated Floodway: Prohibited Encroachments. The following are prohibited in the floodway:

1. Water wells (20.740.120(C)(4)(a)).

2. On-site waste disposal systems (20.740.120(C)(5)(a)).

3. Residential structures or other structures for human habitation including but not limited to:

a. Building envelopes within subdivisions(20.740.120(C)(9)(a));

b. New construction or reconstruction of residential structures (20.740.120(C)(10)(b)(1));

c. Placement or replacement of manufactured homes (all types) (20.740.120(C)(10)(b)(2));

d. Critical facilities housing vulnerable populations and emergency services(20.740.120(C)(12)(a)); and

e. Recreational vehicles (20.740.120(C)(13)(a)).

b. Designated Floodway: Allowed Encroachments. In areas where the base flood elevation has been provided and a regulatory floodway has been designated, other encroachments including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless:

1. Certification by a qualified professional (in this case, a registered professional engineer) is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in base flood elevation (less than 0.00 feet, rounded) or flood velocity during the occurrence of the base flood discharge. At a minimum, such "no rise" analyses shall include a step-backwater analysis and a conveyance compensation analysis as required in the most recently updated or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator's Guide to the National*

Flood Insurance Program; and

2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.

c. No Designated Floodway: Allowed Encroachments. In areas where the base flood elevation has been provided but a regulatory floodway has not been designated, no encroachments including but not limited to new construction, substantial improvement, or other development (including fill) shall be permitted, unless:

1. The applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point; and

2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.

d. Other Areas of Special Flood Hazards and CMZs. In areas of special flood hazards except the floodway or where the BFE has not been provided, or in channel migration zones, encroachments, including but not limited to fill, new construction, replacement structures, substantial improvements and other development shall be prohibited, unless:

1. A qualified professional provides certification demonstrating that the proposed project would not result in a net loss of flood storage capacity; and

2. The applicable standards of Chapter 5A, VMC 20.740.120(C)(2-14) are also met.

2. Property Damage. Development shall not result in adverse impacts to other properties either upstream or downstream.

3. Drainage. Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.

4. Water.

a. Water wells are prohibited in the floodway.

b. In areas of special flood hazards except the floodway and in CMZs, water wells shall be constructed to withstand a 100-year flood without adversely impacting groundwater quality (WAC 173-160-171).

c. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

5. Waste.

a. On-site waste disposal systems are prohibited in the floodway.

b. In areas of special flood hazards except the floodway and in CMZs, on-site waste disposal systems shall be located to avoid flood damage to them or release of contaminants from them during a base flood event.

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate

infiltration of flood waters into the systems and discharge from the systems into flood waters.

6. Construction Materials and Methods.

a. Construction methods and practices shall minimize flood damage.

b. Construction materials and utility equipment shall be resistant to flood damage. For guidance on flood-resistant materials see the most current FEMA Technical Bulletin 2, *Flood-Resistant Materials Requirements.*

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 a base flood event. For guidance on the placement of building utility systems, see the most current FEMA Publication #348, *Protecting Building Utilities from Flood Damage.*

7. Anchoring. All new construction including substantial improvements and all types of manufactured homes shall:

a. Be elevated on a permanent foundation and securely anchored to an adequate foundation system to prevent flotation, collapse, or lateral movement.

b. Be installed or placed using methods and practices that minimize flood damage. Manufactured home placement shall follow the guidance in the most current FEMA P-85, *Protecting Manufactured Homes from Floods and Other Hazards.*

8. Enclosed Areas Below the Base Flood Elevation.

a. Enclosed areas below the base flood elevation shall be used only for vehicle parking, building access, or storage.

b. New or substantially improved enclosed areas below the base flood elevation shall be constructed in accordance with.

1. VMC 20.740.120(C)(7), Anchoring

2. VMC 20.740.120(C)(10)(c)(2)(d), Residential Construction

3. VMC 20.740.120(C)(6)(b-c), Construction Materials and Methods

c. Enclosed areas below the BFE shall not be considered to be the lowest floor when they are not part of a basement and meet the requirements of VMC 20.740.120(C)(10)(d).

d. Crawlspace Construction. Crawlspaces are a type of enclosed area below the BFE. Crawlspaces constructed at or above the lowest adjacent exterior grade are preferred. (Note: Insurance premiums for structures with below-grade crawlspaces will be higher than those with the interior elevation at or above the lowest adjacent exterior grade.) Refer to the most current FEMA Technical Bulletin 11, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas* (available from the Planning Official) for more information. Crawlspaces:

1. Are prohibited in areas with flood velocities greater than five feet (5’) per second

unless designed by a qualified professional (in this case an architect or professional engineer).

2. Shall meet the requirements of VMC 20.740.120(C)(8)(a-c), Enclosed Areas below the BFE.

3. Shall not be considered "basements" for the purposes of VMC 20.740.120 when constructed according to the following standards:

a. The interior grade of a crawlspace below the base flood elevation must not be more than 2' below the lowest adjacent exterior grade.

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4' at any point.

c. The crawlspace must be equipped with a drainage system that removes floodwaters from the interior area of the crawlspace in a reasonable period of time after a base flood event.

9. Subdivisions.

a. All subdivisions shall be designed:

1. To ensure that no residential structure or other structures for human habitation are located in the floodway even though lots may extend into the floodway;

2. To avoid placement of any structures in areas of special flood hazards and in CMZs;

3. Where it is not possible to design a subdivision in a manner to avoid placement of any structures in areas of special flood hazards or CMZs, the subdivision shall be designed to minimize or eliminate potential flood damage.

b. All subdivisions shall have facilities such as sewer, gas, power, cable, fiber optic, telephone, stormwater and water systems located and constructed to minimize or eliminate flood damage. (See VMC 20.740.120(C)(2), Property Damage; VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(6), Construction Materials and Methods; and VMC 20.740.120(C)(7), Anchoring.)

c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage. (See VMC 20.740.120(C)(3), Drainage.)

10. Residential Construction (including Manufactured Homes).

a. Residential Construction in the Floodway.

1. New construction and reconstruction of residential development including placement and replacement of all types of manufactured homes is prohibited in the floodway.

2. Existing residential structures and manufactured homes in the floodway are non-conforming, but may be repaired or improved, provided:

a. The repair or improvement does not increase the ground floor area of the structure; and

b. The repair or improvement does not result in adverse impacts to other properties either upstream or downstream; and

c. The cost of the repair or improvement does not exceed 50% of the market value of the structure either:

1. Before the start of repair or improvement where there is no damage to the structure; or

2. Before flood or other damage to the structure occurred.

d. 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 Planning Official and which are the minimum necessary to assure safe living conditions may be excluded from the 50%.

e. Any project for improvement to a structure identified as a historic place may be excluded from the 50%.

b. Residential Construction in Other Areas of Special Flood Hazards and CMZs. In areas of special flood hazards except the floodway and in channel migration zones:

1. New residential construction and reconstruction, including all types of manufactured homes and other structures for human habitation shall meet all the provisions of this chapter, including VMC 20.740.120(C)(8) and (10)(c-d).

2. New placement or replacement of all types of manufactured homes shall meet the standards of VMC 20.740.120(C)(7), Anchoring.

3. Repair or Substantial Improvement. All provisions of this chapter (including the elevation standards of VMC 20.740.120(C)(8) and (10)(c-d)), all state and local health, sanitary, safety codes, and where applicable, historic preservation codes shall be met when the cost of repair or improvement of an existing residential structure exceeds 50% of the market value of the structure either:

a. Before the start of repair or improvement where there is no damage to the structure; or

b. Before flood or other damage to the structure occurred.

c. Elevation

1. BFE Established. The lowest floor (including basement) of new residential structures (including but not limited to reconstruction, substantial improvement, the placement or replacement of all types of manufactured homes) shall be elevated at least 1 foot above base flood elevation. Structures shall be elevated using means other than fill (such as extended foundation or other enclosure walls, piles, or columns) whenever feasible.

2. No BFE. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(A) and .120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be

reasonably safe from flooding, new residential construction (including but not limited to substantial improvement and the placement of manufactured homes) shall be elevated at least 2' above the highest adjacent grade. (Note: Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates.)

d. Fully Enclosed Areas Below Lowest Floor. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a qualified professional (in this case, a registered professional engineer or architect), or must meet or exceed the following minimum criteria:

1. Contain a minimum of 2 openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding;

2. The bottom of all openings are no higher than 1 foot above grade; and

3. Openings permit the automatic entry and exit of floodwaters even when equipped with screens, louvers, or other coverings or devices.

For guidance on flood openings, see FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.

11. Non-Residential Construction. New construction and substantial improvement of any nonresidential structure shall either be elevated (VMC 20.740.120(C)(11)(a or b)) or flood-proofed (VMC 20.740.120(C)(11)(c)):

a. Be Elevated: BFE Established.

1. Have the lowest floor, including basement, elevated at least one foot above the base flood elevation; and

2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d);

b. Be Elevated: No BFE.

1. In areas where the base flood elevation has not been provided or is not available from an authorized source (VMC 20.740.120(C)(2A) and (3.120(B)(5)) and the Critical Areas Report demonstrates to the satisfaction of the Planning Official that the proposed development would be reasonably safe from flooding, new non-residential construction shall be elevated at least 2' above the highest adjacent grade. Failure to elevate at least 2' above the highest adjacent grade may result in higher insurance rates; and

2. Meet the same standards for space below the lowest floor as described in 20.740.120(C)(8)(d) and VMC 20.740.120(C)(10)(d); or

c. Be Flood-proofed. Together with attendant utility and sanitary facilities shall:

1. Be flood-proofed so that below one foot (or more) above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Official as set forth in VMC 20.740.120(E).

12. Critical Facilities.

a. Critical facilities housing vulnerable populations and emergency services shall be prohibited in the floodway.

b. In areas of special flood hazard except the floodway and in CMZs, construction of new critical facilities shall be prohibited unless the applicant demonstrates that:

1. No feasible alternative site is available; and either:

a. The lowest floor, entrances, egresses, and to the extent feasible access routes are elevated to 3 feet above the base flood elevation or to the elevation of the 500-year flood, whichever is lower; or

b. The applicant demonstrates that other measures would ensure that in the event of a flood, the facility would remain safe and fully operational and that potentially harmful materials would not be displaced by or released into floodwaters. Such measures shall be conditions of approval of the Critical Areas Permit.

13. Recreational Vehicles.

a. Recreational vehicles shall be located outside the floodway.

b. Recreational vehicles in areas of special flood hazard except the floodway and in CMZs shall either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect-type water, sewer, stormwater, gas, power, cable, fiber optic, telephone, and security devices, and have no permanently attached additions; or

3. Meet the requirements of VMC 20.740.120(C)(7), Anchoring; VMC 20.740.120(C)(8), Enclosed Areas below the Base Flood Elevation; and VMC 20.740.120 (C)(10)(c), Elevation.

14. Alteration of Watercourse.

a. The ~~Planning Official~~Shoreline Administrator shall notify adjacent communities and the state coordinating agency, Washington State Department of Ecology, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Alteration or relocation of a watercourse shall be allowed only after:

1. Certification by a qualified professional that the alteration or relocation:

a. Is the only feasible alternative or is part of a restoration project approved by the appropriate state or federal agencies;

b. Will not diminish the flood-carrying capacity of the watercourse;

c. Will not block side channels;

d. Will be accomplished using soft armoring techniques wherever possible;

e. Will avoid to the extent possible and then minimize and mitigate removal of vegetation including downed woody vegetation; and

f. Will not endanger development in the channel migration zone.

2. The applicant provides assurance acceptable to the ~~Planning Official~~Shoreline Administrator of maintenance of the relocated channel such that the flood carrying capacity of the watercourse is not diminished.

D. Variances and Minor Exceptions.

Variances as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property. They apply to the land and are not personal in nature, do not pertain to the structure, its inhabitants, or economic or financial circumstances. The development standards contained in VMC 20.740.120, Frequently Flooded Areas are required by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP) to protect life and property from flood damage.

Variances from the NFIP standards of VMC 20.740.120 shall meet the approval criteria and other requirements of VMC 20.740.120(D) in addition to any other applicable variance criteria or requirements (e.g., VMC 20.290 or VMC 20.760). Variances from the NFIP standards of VMC 20.740.120 shall be processed as Type I or II variances or shoreline variances as appropriate, not as Minor Exceptions (VMC 20.740.070).

Variances or minor exceptions from other critical area standards (any standards of VMC 20.740 not in Section VMC 20.740.120) shall meet the applicable criteria and follow the applicable procedures for the relief requested (VMC 20.740.070, VMC 20.290, or VMC 20.760)

1. NFIP Variances may be allowed:

a. For Historic Structures. NFIP variances may be issued for the repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, Washington Heritage Register, Washington's Heritage Barn Register, Washington's Historic Property Inventory Database, Clark County Cultural Resources Inventory, or Clark County Heritage Register, provided:

1. The proposed development will not preclude the structure's continued designation as a historic structure;

2. The variance is the minimum necessary to preserve the historic character and design of the structure; and

3. NFIP variance approval criteria at VMC 20.740.120(D)(2)(a-d) are met.

b. From the Elevation Standard. An NFIP variance from the elevation standard may be issued for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood elevation. As the lot size increases the technical justification required for issuing the variance increases.

c. From the Flood-proofing Standard for Non-Residential Buildings. NFIP variances may be issued for non-residential buildings to allow a lesser degree of flood-proofing than watertight or dry flood-proofing where it can be determined that such action:

1. Will have low damage potential;

2. Complies with all other NFIP variance criteria except VMC 20.740.120(D)(1)(a)(2);

3. Complies with VMC 20.740.120(C)(4), Water; VMC 20.740.120(C)(5), Waste; VMC 20.740.120(C)(7), Anchoring; and VMC 20.740.120(C)(9), Subdivisions.

d. For Allowed Development within the Floodway. NFIP variances may be issued for development within a floodway only when the requirements of VMC 20.740.120(C)(1)(b) are met.

2. NFIP Variance Approval Criteria. NFIP variances from elevation and flood-proofing standards, and for development in the floodway (VMC 20.740.120(D)(1)(a)(2-4)) may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:

a. The NFIP variance is the minimum necessary, considering the flood hazard, to afford relief.

b. The applicant has demonstrated good and sufficient cause.

c. Failure to grant the NFIP variance would result in exceptional hardship to the applicant. (Exceptional hardship for an NFIP variance is described in a FEMA memorandum dated July 22, 1986 entitled *Resource Materials on NFIP Variance Criteria* available from the Planning Official.)

d. Granting the variance will not result in increased flood heights or velocities, additional threats to public safety, significantly increased property damage potential, extraordinary public expense, or conflict with existing local laws or ordinances.

e. Demonstration that the following factors have been considered:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of facilities such as sewer, gas, electrical, stormwater, and water systems, and streets and bridges.

3. Notices Required.

A notice to the applicant is required whenever a variance is approved, approved with conditions, or denied. Such notice shall include the decision and the reasons for the decision. When a variance from the elevation standard is approved or approved with conditions, such notice shall state that the structure will be permitted to be built with a lowest floor elevation below that normally required with respect to the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

E. Information to be Obtained and Maintained.

1. For all new and substantially improved structures and development, the ~~Planning Official~~Shoreline Administrator shall complete Section B of a current elevation certificate and obtain and record on that certificate:

a. For elevated (rather than flood-proofed) structures and development, the actual (as-built) elevation in relation to mean sea level of the lowest floor (including basement), and whether or not the structure contains a basement.

b. For non-residential, flood-proofed structures, the elevation to which the structure was flood-proofed. All flood-proofing certifications shall also be maintained.

c. Maintain all records pertaining to development in frequently flooded areas subject to the provisions of this chapter, VMC 20.740, for public inspection.

2. Records of Variance Actions. The ~~Planning Official~~Shoreline Administrator shall keep records of all variance actions and report any approved variances to the Federal Insurance Administration upon request.

3. Records of Appeal Actions. The ~~Planning Official~~Shoreline Administrator shall keep records of all appeal actions.
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.130 Geologic Hazard Areas

A. Designation. Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion Hazard Areas. With the exception of bank erosion hazard areas and fault rupture hazard areas, their potential locations are shown on maps available from the ~~Planning Official~~Shoreline Administrator. Final designations shall be based on site conditions and other available data or information [See VMC 20.740.020(C)(1)].

1. Landslide Hazard Areas. Potential landslide hazard areas are identified from the sources listed below.

a. Slopes greater than 25% on the property and adjacent areas within 100 feet, except engineered slopes such as cut and fill slopes along transportation routes (including trails), railroad and other berms, or dikes.

b. Areas of historic or active landslides, potential instability, or older landslide debris identified on the 1975 map by Allen Fiksdal of the Washington State Department of Natural Resources entitled, *Slope Stability: Clark County Washington* as revised or superseded, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.

2. Seismic Hazard Areas. Seismic Hazard Areas include Liquefaction or Dynamic Settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas.

a. Liquefaction or Dynamic Settlement. The following are designated Liquefaction or Dynamic Settlement Hazard Areas:

1. Areas with Low to Moderate, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on the *Alternative Liquefaction Susceptibility Map of Clark County, Washington based on Swanson's Groundwater Model* by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004, as revised or superseded.

2. Areas of fill (Fn) identified by the *1972 USDA Soil Conservation Service Soil Survey* of Clark County Washington and by the ~~Planning Official~~Shoreline Administrator, based on other reliable evidence.

b. Ground Shaking Amplification. The following are designated Ground Shaking Amplification Hazard Areas:

Site Classes C to D, D, D to E, E and F as indicated on the *Site Class Map of Clark County*, Washington by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004 as revised or superseded.

c. Fault Rupture Hazard Areas. Potential Fault Rupture Hazard Areas are faults identified on geological maps prepared and maintained by the Washington Department of Natural Resources (DNR), U.S. Geological Survey (USGS), Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County, Washington, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.

3. Erosion Hazard Areas. Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas.

a. Soil Erosion Hazard Areas. The following are designated Soil Erosion Hazard Areas:

Areas with soils identified as having a severe erosion hazard by the 1972 USDA Soil Conservation Service *Soil Survey of Clark County Washington.*

b. Bank Erosion Hazard Areas. Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100 feet.

B. Additional Critical Areas Report Requirements.

In addition to the requirements of VMC 20.740.050, the following are Critical Areas Report requirements for development proposals in potential geologic hazard areas. These requirements may be adjusted as appropriate by the ~~Planning Official~~Shoreline Administrator. The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area (See VMC20.740.130(B)(6)). If it is, the Critical Areas Report requires additional information, mapping, and analysis (See VMC 20.740.130(B)(7)).

1. Identification of the site and project area (defined at VMC 20.150), topography in 2-foot contours (or other increment at the discretion of the ~~Planning Official~~Shoreline Administrator), gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees, and existing structures on the site plan required by VMC 20.740.050; and

2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations; and

3. Field investigation and evaluation of the areas on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and

4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and

5. Identification of the hazard area indicators that were found (if any) on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100 feet of the site for landslide and bank erosion hazards; and

6. Conclusion as to whether there is a geologic hazard area on site or for landslide and bank erosion hazards on or within 100 feet of the site; and

7. If a liquefaction, dynamic settlement, ground shaking amplification, fault rupture, or soil erosion hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100 feet of the site:

a. Label and show on the site plan required by VMC 20.740.050:

1. The location(s), extent, and type(s) of geologic hazard area(s) identified; and

2. The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development; and

3. The boundaries of the area that may be disturbed.

4. The dimension of the closest distance(s) between the geologic hazard area(s) and the project area.

5. The dimension of the closest distance(s) [See VMC 20.170.030(C)] between any non-disturbance area [VMC 20.740.130(B)(7)(a)(2)] and the project area.

For bank erosion hazard areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures.

b. Analysis of the erosion processes on site for soil erosion hazard areas and on or within 100 feet of the site for bank erosion hazard areas.

c. Evaluation of the impact of the geologic hazard area(s) on the proposed development, other properties, and other critical areas.

1. Landslide hazard areas. The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.

2. Bank erosion hazard areas. Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.

d. Evaluation of the impact of the proposed development on the geologic hazard area(s).

e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

f. Written discussion of:

1. The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for bank erosion hazard areas); and other critical areas; and

2. Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.

g. Recommendations for mitigation of impacts to protect:

1. Human health and safety;

2. Infrastructure;

3. The proposed development;

4. Other properties (both upstream and downstream for bank erosion hazard areas);

5. Other critical areas; and

6. The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

h. A demonstration of how the standards of VMC 20.740.130(C) applicable to each geologic hazard area will be met.

C. Performance Standards.

1. Landslide, Soil Erosion, and Bank Erosion Hazard Areas. Development in non-disturbance areas (VMC 20.740.130(B)(7)(a)(2)) shall be prohibited. In other areas, development in landslide, soil erosion, and bank erosion hazard areas and their buffers [VMC20.740.130(C)(1)(j)] shall be prohibited except where the applicant has demonstrated compliance with or satisfaction of the following standards or requirements.

a. The applicant has demonstrated that during construction and for the anticipated life of the proposed development, the proposed use(s), activity(ies), and structure(s):

1. Will not increase the threat of the geological hazard beyond pre-development conditions; and

2. Will not adversely impact other critical areas wherever feasible given the type of critical areas involved and the characteristics of the site; and

3. Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

4. The life safety risk is minimal or eliminated; and

5. Are certified by a qualified professional as safe as designed and under anticipated conditions.

Landslide hazard areas may be eliminated through grading based on a Critical Areas Report which demonstrates that the slope will be stabilized prepared by a qualified professional (in this case a licensed Engineering Geologist or Professional Engineer). The Critical Areas Permit shall be conditioned on a final inspection approval confirming that the grading and site are stable. At the applicant's expense, after site grading, (a) the qualified professional who prepared the Critical Areas Report shall provide inspection specifications; and (b) an inspector acceptable to the City Building Official shall inspect the grading and the site and submit a report to the City indicating whether the site is stable.

b. A plan for revegetation and landscape maintenance to ensure soil stabilization shall be developed and implemented in accordance with the mitigation plan requirements of VMC 20.740.050(F).

c. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1st to May 1st), except as authorized under a valid state or federal permit or a City Type I permit [VMC 20.740.040(B)(1)(f)].

d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the geologic hazard area, or other critical areas or buffers is increased.

e. The requirements of VMC 14.24, Erosion Control shall be met.

f. Trails shall be for pedestrian and non-motorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.

g. Roads in Landslide and Bank Erosion Hazard Areas. A road through or across a landslide or bank erosion hazard area shall meet the standards of VMC 20.740.130(C)(1)(a)-(f) and shall not be:

1. The sole access for a proposed subdivision (not including short subdivision) or critical facility;

2. Longer than 200 feet;

3. Steeper than a 15% grade.

h. Markers and Signs in Landslide Hazard Areas.

1. The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

2. The boundary at the outer edge of the furthest of the landslide hazard area, non-disturbance area [VMC 20.740.130(B)(7)(a)(2)], or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

3. These provisions may be modified by the ~~Planning Official~~Shoreline Administrator as necessary to ensure protection of sensitive features or wildlife needs.

i. Bank Stabilization for Existing Development in Bank Erosion Hazard Areas.

1. Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:

a. Bank erosion threatens an established use or existing structure(s); and

b. The threatened structure(s) cannot be relocated landward of any non-disturbance area [VMC 20.740.130(B)(7)(a)(2)]; and

c. Where applicable, bank stabilization measures are necessary to the operation and location of water-dependent, water-related, or water enjoyment activities consistent with the City of Vancouver Shoreline Management Master Program; and

d. Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and

e. Bank stabilization measures will not cause a significant adverse impact on fish,

wildlife, or their habitats protected by this chapter.

2. When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.

3. When bank stabilization is allowed, the pertinent policies and regulations of the City of Vancouver Shoreline Management Master Program shall apply in addition to the requirements of this section. The terms and conditions of any other required state or federal permit or approval shall also apply.

j. Buffer. The following regulations apply to landslide and bank erosion hazard area buffers. No buffer is required for soil erosion hazard areas. Buffers may be included in non-disturbance areas [VMC 20.740.130(B)(7)(a)(2)] and required planting and maintenance activities may be undertaken within them.

1. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC 20.170.030(B) and (K)].

2. A vegetated buffer shall be maintained around all landslide and bank erosion hazard areas. No alteration to the buffer shall be undertaken without an erosion control plan approved pursuant to the provisions of VMC 14.24, Erosion Control and this chapter. New plantings shall consist of native vegetation. Maintenance shall be the responsibility of the property owner.

3. The minimum buffer width for bank erosion hazard areas shall be the distance recommended in an approved Critical Areas Report.

4. The minimum buffer width for landslide hazard areas shall be the greatest of the following distances:

a. 50 feet from all edges of the landslide hazard area; or

b. A distance of 1/3 the height of the slope at the top of the slope and a distance of 1/2 the height of the slope at the bottom of the slope [See VMC 20.170.030(J)]; or

c. The minimum distance(s) recommended in an approved Critical Areas Report.

5. A larger buffer width may be required for landslide and bank erosion hazard areas at the discretion of the ~~Planning Official~~Shoreline Administrator when:

a. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or

b. The area has a severe risk of slope failure or downslope stormwater drainage impacts; or

c. The area is directly adjacent to a riparian management area or wetland; or

d. Recommended in an approved Critical Areas Report.

6. The buffer width for landslide hazard areas may be reduced to as little as the smallest of the distances identified in VMC 20.740.130(C)(1)(j)(4) at the discretion of the ~~Planning Official~~Shoreline Administrator when the dimensions of the landslide hazard area are smaller than those distances.

2. Seismic Hazard Areas

a. Liquefaction or Dynamic Settlement Hazard Areas. All building structures in liquefaction or dynamic settlement hazard areas shall comply with the requirements of VMC Title 17, Building and Construction. No buffer is required for liquefaction or dynamic settlement hazard areas.

b. Ground Shaking Amplification Hazard Areas. All building structures in ground shaking amplification hazard areas shall comply with the requirements of VMC Title 17, Building and Construction applicable to the NEHRP soil classification of the subject property. No buffer is required for ground shaking amplification hazard areas.

c. Fault Rupture Hazard Areas.

1. A road through or across a fault rupture hazard area shall not be:

a. The sole access for a proposed subdivision (not including short subdivision) or critical facility;

b. Longer than 200 feet';

c. Steeper than a 15% grade.

2. Structures for human habitation and critical facilities shall be prohibited within fault rupture hazard areas and buffers.

3. Buffer.

a. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area [See VMC 20.170.030(B)].

b. The buffer width shall be the greater of the following distances:

i. 50 feet from all edges of a fault rupture hazard area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet [See VMC 20.170.030(L)]; or

ii. The minimum distance recommended in an approved Critical Areas Report.

c. A larger buffer width may be required when the ~~Planning Official~~Shoreline Administrator determines that the buffer is not adequate to protect the proposed development.
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

Section 20.740.140 Wetlands

A. Designating and Rating Wetlands

1. Designating Wetlands

Wetlands are those areas, designated in accordance with the ~~Washington State Wetland Identification and Delineation Manual (1997, or as revised by Ecology)~~*Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)*, US Army Corps of Engineers, 2010 or as revised, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) 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 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)).

2. Wetland ratings

Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system found in Hruby, 2004, *Washington State Wetlands Rating System for Western Washington*, Ecology publication #04-06-025, or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used:

a. Wetland Rating Categories

1. Category I. Category I wetlands are those that meet one or more of the following criteria:

a. Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as high quality wetlands;

b. Bogs;

c. Mature and old growth forested wetlands larger than 1 acre;

d. Wetlands that perform many functions well, as indicated by scoring 70 points or more (out of 100) in the rating system.

2. Category II. Category II wetlands are those with a moderately high level of functions, as indicated by scoring 51-69 in the Ecology rating system.

3. Category III. Category III wetlands are those with a moderate level of functions, as indicated by scoring 30-50 in the Ecology rating system.

4. Category IV. Category IV wetlands are those with a low level of functions, as indicated by scoring less than 30 in the Ecology rating system.

B. Additional Critical Areas Report Requirements

A Critical Areas Report for wetlands shall be prepared according to the *Washington State Wetland*

Identification and Delineation Manual (1997, or as revised by Ecology) and the Hruby, 2004, *Washington State Wetlands Rating System for Western Washington*, Ecology publication #04-06-025 (or as revised by Ecology). The Critical Areas Report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:

a. Hydrogeomorphic (HGM) classification;

b. Wetland category;

c. Wetland delineation and required buffers;

d. Existing wetland acreage;

e. Vegetative, faunal, and hydrologic characteristics;

f. Soil types and substrate conditions;

g. Topographic elevations, at 1' contours; and

h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).

2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.

3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:

a. Existing and proposed wetland acreage;

b. Existing and proposed vegetative and faunal conditions;

c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

d. Relationship to lakes, streams and rivers in the watershed;

e. Soil type and substrate conditions;

f. Topographic elevations, at 1' contours; and

g. Required wetland buffers including existing and proposed vegetation.

h. Identification of the wetland's contributing area; and

i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.

C. Performance Standards

1. General Requirements. Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. Activities shall result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards (VMC 20.740.060).

a. Wetlands

1. In Category I Wetlands only the following activities may be allowed:

a. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

b. Trails and wildlife viewing structures provided that the trails and structures minimize the impact and are constructed so that they do not interfere with any wetland functions and do not result in increased sediment entering the wetland.

2. In Category II Wetlands only the following activities may be allowed:

a. Activities allowed in Category I wetlands pursuant to VMC 20.740.140(C)(1)(a)(1).

b. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

c. Within shoreline jurisdiction (VMC 20.760.020), water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

d. Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impacts on a wetland on another site or sites in the City of Vancouver or Vancouver Urban Growth Area.

3. In Category III Wetlands only the following activities may be allowed:

a. Activities allowed in Category II wetlands pursuant to VMC 20.740.140(C)(1)(a)(2).

b. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).

4. In Category IV Wetlands activities and uses that result in impacts may be permitted in

accordance with an approved Critical Areas Report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to VMC 20.740.140(C)(2).

b. Wetland Buffers

1. Standard buffer widths. Standard buffer widths are those determined by Ecology and described in Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands or as revised by Ecology. Buffer widths are based on wetland category, wetland characteristics and land use intensity.

a. Land use intensities are as follows:

TABLE 20.740.140 - 1
LAND USE INTENSITIES

Land Use Intensity	**VMC Title 20 Zoning Districts**
High	All Residential, Commercial or Industrial Zones
Moderate	Open Space Park or Open Space Greenway: General
Low	Open Space Greenway: Lettuce Fields or Vancouver Lowlands; or Open Space Natural

b. Level of function for habitat, based on the Washington State Wetland Rating System is as follows:

TABLE 20.740.140-2
RATING SYSTEM

Level of Function	**Habitat Score In Rating System**
High	29 - 36
Moderate	20 - 28
Low	< 20

c. Buffer widths are measured horizontally from the edge of the wetland [See VMC 20.170.030(B) and (H)] and are as follows:

i. Category I Wetlands

TABLE 20.740.140-3

CATEGORY I WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Natural Heritage Wetlands or Bogs	High Moderate Low	250' 190' 125'
Forested Wetlands High Habitat Function	 High Moderate Low	 300' 225' 150'
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	100' 75' 50'
Other Category I Wetlands High Habitat Function	 High Moderate Low	 300' 225' 150'
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	100' 75' 50'

ii. Category II wetlands

TABLE 20.740.140-4
CATEGORY II WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
High Habitat Function	High Moderate Low	300' 225' 150'
Moderate Habitat Function	High Moderate	150' 110'

	Low	75'
Low Habitat Function	High Moderate Low	100' 75' 50'

iii. Category III wetlands

TABLE 20.740.140-5
CATEGORY III WETLAND BUFFER WIDTHS

Wetland Characteristics	Land Use Intensity	Buffer Width
Moderate Habitat Function	High Moderate Low	150' 110' 75'
Low Habitat Function	High Moderate Low	80' 60' 40'

iv. Category IV wetlands

TABLE 20.740.140-6
CATEGORY IV WETLAND BUFFER WIDTHS

Wetland Characteristics	**Land Use Intensity**	**Buffer Width**
All Category IV Wetlands	High Moderate Low	50' 40' 25'

d. All buffers shall be measured from the wetland boundary as surveyed in the field.

e. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

2. Wetland buffer width averaging. The ~~Planning Official~~Shoreline Administrator may allow modification of the standard wetland buffer width in accordance with an approved Critical Areas Report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction or a minor exception. Averaging of buffer widths (See VMC 20.170.080(B)(2)) may only be allowed where a qualified professional wetland scientist demonstrates that:

a. Such averaging will not reduce wetland functions or functional performance; and

b. The wetland varies in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and

c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

d. The buffer width is reduced by no more than 25% of the standard width and at no point to less than 25'.

3. Buffer width reduction based on reducing the intensity of impacts from land uses. Buffer widths required for high intensity land uses may be reduced to those required for moderate land use intensity under the following conditions:

a. For wetlands with moderate or high habitat function:

i. A relatively undisturbed vegetated corridor at least 100' wide is protected between the wetland and any other Priority Habitats and areas associated with Priority Species (VMC 20.740.110(A)(1)(b); and

ii. Measures to minimize the impacts of different land uses on wetlands are applied, as approved by the ~~Planning Official~~Shoreline Administrator. Such measures include, but are not limited to, the examples summarized below.

TABLE 20.740.140-7
EXAMPLES OF MEASURES TO MINIMIZE LAND USE IMPACTS

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland
Noise	Manufacturing, residential, commercial	Locate activity that generates noise away from wetland
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals	Route only treated runoff to a wetland Establish covenants limiting use of toxic chemicals within 150' of wetland Apply integrated pest management
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer
Pets	Residential	Plant dense vegetation around buffer, such as rose or hawthorn
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn

Dust	Tilled fields	Utilize best management practices to control dust

b. For wetlands with low habitat function measures to minimize the impacts of different land uses on wetlands (VMC 20.740.140(C)(1)(b)(3)(a)(ii) are applied.

c. Buffer width reduction shall not be used in combination with buffer width averaging (VMC 20.740.140(C)(1)(b)(2)) or a minor exception (20.740.070).

4. Buffer maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be maintained according to the approved Critical Areas Permit.

5. Buffer uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this Chapter; provided, they are not prohibited by any other applicable law or regulation and they are conducted in a manner so as to avoid and minimize impacts to the buffer and the wetland:

a. Activities allowed under the same terms and conditions as in the associated wetlands pursuant to VMC 740.140(C)(1)(a) provided trails shall be located in the outer 25% to 50% of the buffer when feasible and consistent with the public access provisions of this program.

b. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.

c. Passive recreation facilities including trails and wildlife viewing structures, provided that the trails and structures are constructed with a surface that does not interfere with wetland hydrology.

d. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. Stormwater management facilities, limited to detention facilities, constructed wetlands, stormwater dispersion outfalls and bioswales, may be constructed in accordance with an approved Critical Areas Report within the buffers of Category III or IV wetlands, provided that:

i. No other location is feasible; and

ii. The location of such facilities will not degrade the functions of the wetland or buffer.

c. Signs and Fencing of Wetlands

1. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the ~~Planning Official~~Shoreline Administrator prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

2. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the ~~Planning Official~~Shoreline Administrator.

3. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and

thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the ~~Planning Official~~Shoreline Administrator determines that the animals would not degrade the functions of the wetland or buffer.

4. Permanent signs shall be posted at an interval of one per lot for single family residential uses or at a maximum interval of 200', or as otherwise determined by the ~~Planning Official~~Shoreline Administrator, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the ~~Planning Official~~Shoreline Administrator: "The area beyond this sign is a wetland or wetland buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. Compensatory Mitigation. Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC 20.740.060 and shall be consistent with the Department of Ecology *Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance*, Version 1, Ecology publication #06-06-011a March 2006, or as revised by Ecology. Watersheds are defined in VMC 20.740.020(C)(2) and 20.150.

a. 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 or buffer functions as those lost, except when:

1. The lost wetland or buffer 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 limited within a watershed through a formal Washington state watershed assessment plan or protocol; or

2. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

b. Mitigation actions

1. Creation. The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.

2. Re-establishment. The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Re-establishment results in a gain in wetland acres and functions.

3. Rehabilitation. The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.

4. Enhancement. The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation,

controlling non-native or invasive species, modifying site elevations to result in open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

c. Type and location of mitigation. Compensatory mitigation for ecological functions shall be in-kind. Compensatory mitigation shall be on-site or within the impacted wetland's: (1) contributing area; (2) stream reach; (3) sub-watershed; or (4) watershed. (Sub-watersheds and watersheds are identified on the Clark County Digital Atlas.) The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

1. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or

2. 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

3. Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

d. Mitigation ratios

1. Acreage replacement ratios.

a. The replacement ratios shall apply to wetland mitigation that is for the same hydrogeomorphic class (depressional, riverine, lacustrine or slope wetlands), on-site, the same category, and timed prior to or concurrent with alteration and that has a high probability of success.

b. The ratios are based on replacing a Category I or II wetland with a Category II wetland and replacing a Category III or IV wetland with a Category III wetland.

c. The ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.

d. If the wetland area impacted is replaced at a 1:1 ratio through re-establishment, creation or rehabilitation, the remainder of the area needed for mitigation can be replaced by enhancement (Table 20.740-8).

e. Mitigation ratios. Ratios determined "case-by-case" shall be approved by the ~~Planning Official~~Shoreline Administrator. Mitigation ratios are as follows (see VMC 20.740.140(C)(2)(b) for definitions of mitigation actions):

TABLE 20.740.140-8
MITIGATION RATIOS

Wetland Category and Type	**Re-Establishment or Creation**	**Rehabilitation**	**Re-Establishment or Creation (R/C) plus Rehabilitation (RH)**	**Re-Establishment or Creation (R/C) plus Enhancement (E)**	**Enhancement Only**
Category I Bog	Not Considered Possible	6:1 Rehabilitation of a Bog	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Natural Heritage Site	Not Considered Possible	6:1 Rehabilitation of a Natural Heritage Site	R/C Not Considered Possible	R/C Not Considered Possible	Case-by-Case
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

2. Increased replacement ratio. The ~~Planning Official~~Shoreline Administrator may increase the ratios under the following circumstances:

a. Unusual uncertainty exists as to the probable success of the proposed restoration or creation;

b. A significant period of time will elapse between impact and replication of wetland functions; or

c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted.

e. Mitigation timing. The mitigation shall be prior to or concurrent with alteration or as soon as feasible.

f. Buffers for mitigation wetlands. Buffers for mitigation wetlands shall be 300’ for Category II and 150’ for Category III wetlands or determined case-by-case following guidelines in *Wetland Mitigation in Washington State, Part 1:Agency Policies and Guidance*, Version 1, Ecology publication #06-06-011a, March 2006, or as revised by Ecology.

g. Wetland mitigation banks.

1. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:

a. The bank is certified under Chapter 173-700 WAC;

b. The ~~Planning Official~~Shoreline Administrator determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.
(M-3844, Amended, 10/01/2007, Sec 2; M-3692, Added, 02/28/2005, Sec 2)

CHAPTER 6 SPECIFIC SHORELINE USE REGULATIONS

6.1 General Provisions

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.

2. These regulations are intended to work in concert with all sections of this Program and in particular the Goals and Policies (Chapter 3) and General Use and Development Regulations (Chapters 5 and 5A).

6.2 Shoreline Use, Modification, and Standards Table

1. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program (Chapter 4). Table 6-1 identifies those uses that are prohibited, may be permitted or permitted with a conditional use approval in each shoreline designation. In the event conflicts exist between the Table 6-1 and the text in this chapter, the text shall apply.

2. Table 6-1 also summarizes general setbacks and building heights for uses within each shoreline designation. These setbacks apply in conjunction with the critical areas requirements established in Chapter 5A of this Program. In the event a conflict exists between Table 6-1 and the requirements of Chapter 5 or 5A, the most protective of shoreline ecological functions shall apply.

3. In Table 6-1, setbacks are measured landward from the ordinary high water mark (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right of way and not just the structure or pipeline. Building heights landward of the OHWM are calculated according to WAC 173-27-030(9). In the Aquatic shoreline designation, the setback is waterward of the OHWM and building heights in the Aquatic shoreline designation are measured from the elevation of the OHWM.

4. All the shoreline designations, even if they are not applied within the City limits or urban growth area are included in Table 6-1 to maintain consistency countywide. (See Sections 4.3 and 4.4.5.) Rural Conservancy – Residential and Rural Conservancy – Resource Lands are not applied within the City limits or urban growth area.

5. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.

Table 6-1. Shoreline Use, Modification and Development Standards

Table 6-1 is to be used and understood together with the related policies and regulations of this Program.

"Uses" refers to uses, structures, and/or developments as applicable.

Setbacks are landward from the OHWM in the NT, UC, MI, HI, RC-RD, & RC-RL shoreline designations and waterward of the OHWM in the AQ Shoreline Designation.

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ (Both)**	**NT (Both)**	**UC (Urban)**	**MI (Urban)**	**HI (Urban)**	**RC-RD (Rural)**	**RC-RL (Rural)**
Shoreline Designation	**Aquatic**	**Natural**	**Urban Conservancy**	**Medium Intensity**	**High Intensity**	**RC Residential**	**RC Resource Lands**
Shoreline Uses							
Agriculture							
Agriculture	**X**	**X**	**C**	**P**	**P**	**P**	**P**
• *Setback*	N/A	N/A	100'	100'	100'	100'	100'
• *Height*	N/A	N/A	35'	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	**P**	**X**	**C**	**C**	**C**	**C**	**C**
• *Setback*	0'	N/A	50'	50'	50'	50'	50'
Boating Uses							
Motorized Boat Launches	**P**	**X**	**C**	**C**	**P**	**P**	**P**
• *Setback*	0'	N/A	0'	0'	0'	0'	0'
Non-motorized Boat Launches	**P**	**C**	**P**	**P**	**P**	**P**	**P**
• *Setback*	0'	0'	0'	0'	0'	0'	0'
Marinas	**P**	**X**	**X**	**C**	**P**	**C**	**C**
• *Setback*	0'	N/A	N/A	25'	25'	25'	25'
• *Height*							
- 0'-100' from OHWM	20'	N/A	N/A	25'	35'	25'	35'
- >100' from OHWM	20'	N/A	N/A	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	**P**[1]	**X**	**P**[1]	**P**[1]	**P**[1]	**P**[1]	**P**[1]
• *Setback*	0'	NA	0'	0'	0'	0'	0'
Commercial Uses							
Water-dependent	**C**	**X**	**X**	**P**	**P**	**C**	**C**
• *Setback*	0'	N/A	N/A	0'	0'	0'	0'
• *Height*							
- 0'-100' from OHWM	15'	N/A	N/A	35'	35'[2]	35'	35'
- >100' from OHWM	15'	N/A	N/A	45'	60'[2]	45'	45'
Water-related, Water-enjoyment	**X**	**X**	**X**	**P**	**P**	**C**	**C**
• *Setback*	N/A	N/A	N/A	25'	25'	25'	25'
• *Height*							
- 0'-100' from OHWM	N/A	N/A	N/A	25'	35'[2]	35'	35'
- >100' from OHWM	N/A	N/A	N/A	35'	45'[2]	45'	45'

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ (Both)**	**NT (Both)**	**UC (Urban)**	**MI (Urban)**	**HI (Urban)**	**RC-RD (Rural)**	**RC-RL (Rural)**
Shoreline Designation	**Aquatic**	**Natural**	**Urban Conservancy**	**Medium Intensity**	**High Intensity**	**RC Residential**	**RC Resource Lands**
Non-water-oriented	**X**	**X**	**X**	**C**[3]	**C**[3]	**X**	**X**
• *Setback*	N/A	N/A	N/A	100’	100’	N/A	N/A
• *Height*	N/A	N/A	N/A	25’	25’[2]	N/A	N/A
Forestry							
Log Storage	**C**	**X**	**X**	**X**	**P**	**X**	**P**
• *Setback*	0’	N/A	N/A	N/A	50’	N/A	50’
Timber Harvest	**X**	**X**	**C**	**P**	**P**	**P**	**P**
• *Setback*	N/A	N/A	100’	100’	50’	100’	50’
Industrial Uses							
Water-dependent	**P**	**X**	**X**	**X**	**P**	**X**	**X**
• *Setback*	0’	N/A	N/A	N/A	0’	N/A	N/A
• *Height*							
- 0’-100’ from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
- >100’ from OHWM	UNL	N/A	N/A	N/A	UNL	N/A	N/A
Water-related	**X**	**X**	**X**	**X**	**P**	**X**	**X**
• *Setback*	N/A	N/A	N/A	N/A	50’	N/A	N/A
• *Height*							
- 0’-100’ from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
- >100’ from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
Non-water-oriented	**X**	**X**	**X**	**X**	**P**	**X**	**X**
• *Setback*	N/A	N/A	N/A	N/A	100’	N/A	N/A
• *Height*	N/A	N/A	N/A	N/A	35’	N/A	N/A
Institutional Uses							
Water-dependent	**C**	**X**	**C**	**P**	**P**	**C**	**C**
• *Setback*	0’	N/A	0’	0’	0’	0’	0’
• *Height*							
- 0’-100’ from OHWM	35’	N/A	25’	35’	35’	35’	35’
- >100’ from OHWM	35’	N/A	35’	45’	35’	45’	45’
Water-related	**X**	**X**	**X**	**P**	**P**	**C**	**X**
• *Setback*	N/A	N/A	N/A	25’	25’	50’	NA
• *Height*							
- 0’-100’ from OHWM	N/A	N/A	N/A	35’	45’	35’	N/A
- >100’ from OHWM	N/A	N/A	N/A	45’	60’	35’	N/A
Non-water-oriented	**X**	**X**	**X**	**C**[3]	**C**[3]	**X**	**X**
• *Setback*	N/A	N/A	N/A	100’	100’	N/A	N/A
• *Height*	N/A	N/A	N/A	35’	35’	N/A	N/A
Mining							
Gravel Mining	**C**[4]	**X**	**X**	**X**	**C**[4]	**C**[4]	**C**[4]
• *Setback*	0’	N/A	N/A	N/A	200’	200’	200’
Hard Rock Mining	**X**	**X**	**X**	**X**	**C**[4]	**C**[4]	**C**[4]
• *Setback*	N/A	N/A	N/A	N/A	100’	100’	50’
Parking							

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ (Both)**	**NT (Both)**	**UC (Urban)**	**MI (Urban)**	**HI (Urban)**	**RC-RD (Rural)**	**RC-RL (Rural)**
Shoreline Designation	**Aquatic**	**Natural**	**Urban Conservancy**	**Medium Intensity**	**High Intensity**	**RC Residential**	**RC Resource Lands**
Primary Use	**X**	**X**	**X**	**X**	**X**	**X**	**X**
• *Setback*	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Use	**X**	**X**	**P**	**P**	**P**	**P**	**P**
• *Setback*	N/A	N/A	100’	100’	50’	100’	100’
• *Height*	N/A	N/A	35’	35’	35’	35’	35’
Recreational Uses							
Water-dependent	**P**	**P**[5]	**P**	**P**	**P**	**P**	**P**
• *Setback*	0’	0’	0’	0’	0’	0’	0’
• *Height*	15’	15’	15’	35’	35’	35’	35’
Water-related/enjoyment (trails generally parallel to the shoreline, accessory bldgs)	**C**[5]	**C**[5]	**P**	**P**	**P**	**P**	**P**
• *Setback*	0’	50’[6]	50’[6]	50’[6]	20’	20’	20’
• *Height*	15’	15’	15’	35’	35’	35’	35’
Public access connections generally perpendicular to the shoreline to water-related/enjoyment features (viewpoints, fishing piers)							
• *Setback*	0’	0’	0’	0’	0’	0’	0’
Non-water-oriented (golf courses, sports fields)	**X**	**X**	**C**	**C**	**C**	**C**	**X**
• *Setback*	N/A	N/A	100’	100’	100’	200’	N/A
• *Height*	N/A	N/A	25’	25’	25’	15’	N/A
Residential Uses							
Single-family[7]	**X**	**X**	**P**	**P**	**X**	**P**	**P**
• *Setback*	N/A	N/A	100’	50’	N/A	100’	100’
• *Height*	N/A	N/A	35’	35’	N/A	35’	35’
• *Density*	N/A	N/A	In accordance with the underlying zoning				
Floating homes (new)	**X**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**
• *Height*	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Floating homes (existing)[8]	**P**	**N/A**	**N/A**	N/A	**N/A**	**N/A**	**N/A**
• *Height*	Existing	N/A	N/A	N/A	N/A	N/A	N/A
Multifamily	**X**	**X**	**X**	**P**	**P**	**X**	**X**
• *Setback*	N/A	N/A	N/A	35’	35’	N/A	N/A
• *Height*	N/A	N/A	N/A	35’	35’	N/A	N/A
• *Density*	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
Signs							
Sign heights are regulated in accordance with VMC 20.960 or VMC 20.450 as applicable. Free-standing informational signs in the Aquatic SD are limited to 15’[9].							
Agricultural	**X**	**X**	**X**	**X**	**P**	**P**	**P**
Fascia or Wall Signs	**X**	**X**	**X**	**P**	**P**	**P**	**P**
Free Standing Informational	**P**	**P**	**P**	**P**	**P**	**P**	**P**

Ex3098-0132-VAN

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Shoreline Designation	**Aquatic**	**Natural**	**Urban Conservancy**	**Medium Intensity**	**High Intensity**	**RC Residential**	**RC Resource Lands**
High School Electronic Message	**X**	**X**	**X**	**P**	**P**	**P**	**P**
Monument	**X**	**P**	**P**	**P**	**P**	**P**	**P**
Navigation	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	**C**[10]	**X**	**P**	**P**[10]	**P**[10]	**P**	**P**
• *Right-of-Way Setback*	0’	N/A	200’	100’[10]	100’[10]	200’	200’
Secondary/Public Access Roads (parallel to OHWM)	**X**	**X**	**P**	**P**	**P**	**P**	**P**
• *Right-of-Way Setback*	NA	N/A	100’	50’	50’	100’	100’
Secondary/Public Access Roads (perpendicular to OHWM)	**X**	**X**	**P**	**P**	**P**	**P**	**P**
• *Setback*	N/A	N/A	Limited to the setback for the use the road is serving[11]				
Bridges (perpendicular to shoreline)	**C**	**C**	**C**	**P**	**P**	**C**	**C**
• *Setback*	0’	0’	0’	0’	0’	0’	0’
Utility Uses							
Above-ground Utilities (parallel to shoreline)	**C**	**C**	**P**	**P**	**P**	**P**	**P**
• *Right-of-Way Setback*	0’	200’	100’	50’	50’	100’	100’
• *Structure Height*	15’	15’	35’	35’	UNL	15’	15’
• *Distribution Pole Height*	0’	45’	45’	45’	UNL	45’	45’
Electrical Transmission Lines	**C**	**C**	**C**	**C**	**C**	**C**	**C**
• *Tower Height*	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	**C**	**C**	**P**	**P**	**P**	**P**	**P**
• *Right-of-Way Setback*	0’	200’	100’	50’	50’	50’	50’
Underground Utilities (perpendicular to shoreline)	**C**	**C**	**C**	**C**	**C**	**C**	**C**
• *Right-of-Way Setback*	0’	0’	0’	0’	0’	0’	0’
Unclassified Uses							
Unclassified Uses	**C**	**C**	**C**	**C**	**C**	**C**	**C**
• *Setback*	0’	200’	100’	100’	100’	100’	100’
• *Height*	15’	15’	35’	35’	35’	35’	35’
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	**C**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**
Maintenance Dredging	**P**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**
Dredge Material Disposal	**C**	**X**	**X**	**C**[12]	**C**[12]	**C**	**C**
Dredging & Disposal as part of Ecological Restoration/ Enhancement	**P**	**C**	**P**	**P**	**P**	**P**	**P**
Fill							
Speculative	**X**	**X**	**X**	**X**	**X**	**X**	**X**

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Shoreline Designation	**Aquatic**	**Natural**	**Urban Conservancy**	**Medium Intensity**	**High Intensity**	**RC Residential**	**RC Resource Lands**
Other	**C**[13]	**P**[14]	**P**	**P**	**P**	**P**	**P**
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	**C**	**X**	**C**	**C**	**P**	**C**	**C**
Instream structures	**C**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Shoreline Stabilization							
Bioengineered/Non-Structural	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Structural	**C**	**X**	**C**	**C**	**C**	**C**	**C**
Breakwaters, Jetties, Rock Weirs, and Groins	**C**	**X**	**C**	**C**	**C**	**C**	**C**

[1] Private docks permitted as community or joint-use only. See Section 6.3.3.4.

[2] See Section 6.3.4(7).

[3] As part of mixed-use development only. See Section 6.3.4(4), 6.3.7(2) and (4).

[4] In Surface Mining Overlay areas only

[5] Passive only

[6] See Section 6.3.10(12, 13, and 14). Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a 0' setback when connected to a public access trail.

[7] See Section 6.3.11(11) for information about existing residential development on land.

[8] See Section 6.3.11(4) for information about existing floating homes.

[9] Above Ordinary High Water Mark (OHWM)

[10] See 6.3.13(6).

[11] New roads may connect to existing roads within shoreline jurisdiction as long as the connection is landward of the existing road and the ordinary high water mark.

[12] Permitted outside of channel migration zones.

[13] See Section 5.6.2(11).

[14] Permitted for restoration only; otherwise prohibited.

6.3 Use-specific Development Regulations

6.3.1 Agriculture

1. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.

2. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:

   a. Suitable bridges, culverts or ramps for stock crossing;

   b. Ample supplies of clean water in tanks on dry land for stock watering; and

   c. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.

3. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.

4. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. Composted organic wastes may be used for fertilization or soil improvement.

5. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of VMC Title 20 and this Program.

6.3.2 Aquaculture

1. No aquatic species shall be introduced into City waters without prior written approval of the appropriate state or federal regulatory agency for the species proposed for introduction. Such approval(s) shall be submitted in writing to the City as part of the shoreline permit application.

2. Aquaculture facilities shall only be permitted where impacts to existing water-dependent uses can be fully mitigated.

3. Fish net-pens shall not occupy more than one (1) surface acre of water, excluding booming and anchoring equipment and shall not be located within one (1) mile of any other aquaculture facility.

4. No processing of any aquaculture product, except for the sorting or culling of the cultured species and the washing or removal of surface materials or species after harvest, shall occur in or over the water. All other processing activities and facilities shall be located on land.

5. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

6. Aquacultural uses and facilities not involving substantial substrate modification shall be located at least six hundred (600) feet from any wildlife refuge lands; those involving substantial substrate modification shall be located at least fifteen hundred (1,500) feet from such areas. Lesser distances may be authorized without a variance if (1) it is demonstrated by the applicant that the fish and wildlife habitat resources will be protected; and (2) if the change is supported by the reviewing resource agencies. Greater distances may be required if recommended by the reviewing resource agencies.

7. Aquacultural structures and activities that are not water-dependent (including but not limited to, warehouses for storage of products, parking and loading facilities) shall be located landward of the OHWM and landward of water dependent portions of the project, and shall minimize detrimental impacts to the shoreline.

8. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock. Materials, which are not necessary for the immediate and regular operation of the facility, shall not be stored waterward of the OHWM.

9. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation. All wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards.

10. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and application.

11. Prior to use of any agents such as antibiotics, vaccines, growth stimulants, or anti-fouling agents, approval must be obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, Ecology, WDFW, and the Department of Agriculture, as required, and proof thereof is submitted to the City.

12. Only non-lethal, non-abusive predator control methods shall be used. Double netting for seals, overhead netting for birds, and three-foot high fencing or netting for otters are approved methods of predator control. The use of other nonlethal,

non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

6.3.3 Boating Uses

6.3.3.1 General Requirements

1. All boating uses, development and facilities shall protect the rights of navigation.

2. Boating uses, developments, and facilities shall locate on stable shorelines in areas where:

   a. There is adequate water mixing and flushing;

   b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;

   c. Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and

   d. Water depths are adequate to prevent the structure from grounding out at the lowest low water.

3. Boating uses, developments and facilities shall not be located:

   a. Along braided or meandering river channels where the channel is subject to change in alignment;

   b. On point bars or other accretion beaches; or

   c. Where new or maintenance dredging will be required;

   d. In areas with important bank margin habitat for all life stages of aquatic species; or

   e. Where wave action caused by boating use would increase bank erosion rates.

4. Marinas shall be designed to:

   a. Provide thorough flushing of all enclosed water areas;

   b. Allow the free movement of aquatic life in shallow water areas; and

   c. Avoid and minimize any interference with geo-hydraulic processes and disruption of existing shore forms.

   d. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner or lessee.

5. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidance if located in or over state-owned aquatic lands. On the Columbia River, boating facilities shall be sited waterward of -15 feet CRD to protect shallow water habitat unless shallow water habitat will be created as mitigation.

6. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.

7. Boating uses and facilities shall be located far enough from public swimming beaches, fishing, aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.

8. Accessory uses at boating facilities shall be:

    a. Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and

    b. Located as far landward as possible while still serving their intended purposes.

9. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.

10. All marinas and public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use. One restroom and hand sanitizing facility shall be provided for every seventy-five (75) marina moorage slips or twenty (20) boat launch parking spaces.

11. Installation of boat waste discharge and disposal facilities such as pump-outs and portable dump stations shall be required at all marinas and public moorage facilities, and shall be provided at public boat launches to the extent possible. Such facilities shall include oil containment barriers when required by the US Coast Guard under provisions of the Clean Water Act. The locations of such facilities shall be considered on an individual basis in consultation with the Washington Departments of Health, Ecology, Natural Resources, Parks, and Fish and Wildlife, as necessary.

12. All utilities shall be placed at or below the dock surface, or below ground, as appropriate.

13. All signage shall adhere to the standards for signs in this chapter, VMC 20.960, and VMC 20.450, except that a marina or boat launch may have one advertising sign oriented towards the water that does not exceed twenty four (24) square feet in area and fifteen (15) feet in height above the OHWM.

14. Where appropriate, marinas and boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.

15. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited.

16. Boats shall be restricted from extended mooring on waters of the state except as allowed by state regulations and provided that lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

17. No more than one private community or joint-use boating facility (boat launch, float, dock, pier, dock/pier combination, or mooring buoy) is allowed on a parcel or lot when a public facility is unavailable within ½-mile upstream or downstream of any property line and all applicable requirements are met.

6.3.3.2 Boat Launch Facilities

1.

2. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.

3. A private boat launch shall be allowed on a parcel or lot only when public boat launches are unavailable within ½-mile upstream or downstream of any property line.

4. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.

5. Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.

6.

6.3.3.3 Marinas

1. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any

greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.

2. Wet-moorage marinas shall locate a safe distance from domestic sewage or industrial waste outfalls.

3. To the maximum extent possible, marinas and accessory uses shall share parking facilities and those facilities shall be located landward of critical area buffers to the extent practicable.

4. New marina development shall provide public access amenities such as viewpoints, interpretive displays, and public access to accessory water-enjoyment uses such as restaurants.

5. If a marina is to include gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazard, and to facilitate fire and pollution control. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials, and toxic products.

6. Live-aboards are restricted to marinas that provide potable water, waste handling, and other sanitary services. Live-aboards may occupy up to twenty (20) percent of the slips at such a marina and shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility.

7. The marina operator shall be responsible for the collection and proper disposal of sewage, solid waste, and petroleum waste.

8. No commercial or sport fish-processing discharge or discarding of unused bait, scrap fish, or viscera shall be permitted within any marina.

9. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.

10. Covered moorage shall be limited to the number of covered moorage slips legally established prior to January 1, 2011 and to the amount of water surface area covered.

11. The restrictions in 6.3.3.3(10) shall not apply to over-water structures housing water-dependent emergency response equipment for public agency use to protect people, property, and the environment in and adjacent shoreline jurisdiction. However, such new, remodeled, rebuilt, or relocated structures shall be constructed to allow 60% light penetration over 60% of the structure whether enclosed or not.

12. Commercial covered moorage facilities may be permitted only where boat construction or repair work is to be the primary activity and covered work areas

are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible. When permitted, commercial covered moorage facilities must be constructed to allow 60% light penetration over 60% of the structure, whether enclosed or not.

13. Marina development must also meet the standards of 6.3.3.4(10)(a-k).

6.3.3.4 Joint Use and Community Moorage Facilities

1. Community and joint use moorage facilities are defined (Chapter 8) and regulated as marinas (Section 6.3.3.3; defined in Chapter 8) if:

    a. They provide commercial goods or services;

    b. They have ten (10) or more slips;

    c. Moorage is proposed to be leased to upland property owners; or

    d. The proposal includes a boat launching facility other than a ramp.

2. Live-aboards are not allowed at joint-use or community moorages.

3. Covered moorage facilities associated with any residential development shall be prohibited.

4. Existing, legally-established, private recreational docks, piers, and floats for individual single-family developments are considered non-conforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, it may be replaced with only one joint-use or community facility that complies with the policies and regulations of this Program. All required permits and approvals shall be obtained prior to commencing construction.

5. A new private dock or pier serving an individual lot is prohibited.

6. New joint-use docks and piers serving two or more lots each with water frontage are allowed if no marina or public boat launch is located within ½-mile upstream or downstream of any property line and all applicable requirements of this Program are met.

7. New residential land divisions with shoreline frontage shall provide for community docks if there is an appropriate location for future construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new moorage facility is proposed within a residential waterfront development, only one community moorage facility may be allowed, but only after demonstrating that such use is appropriate for the waterbody and that no public moorage facility is available to residents within ½-mile of the perimeter of the development. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat. In

addition, the community dock easement shall be recorded with the County Auditor.

8. Applicants for community or joint-use residential docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:

    a. Apportionment of construction and maintenance expenses;

    b. Easements and liability agreements; and

    c. Use restrictions.

9. Only a single, community moorage facility shall be permitted in association with hotels, motels, and multi-family residences. No more than one (1) mooring slip per unit shall be allowed.

10. The dimensions of a joint use or community moorage facility dock or pier shall be no greater than necessary, and shall meet the development standards listed below.

    a. Fixed-piers shall not be permitted for residential use on rivers. Floating docks shall be required in rivers and streams unless it can be demonstrated that fixed docks will result in substantially less impact on geo-hydraulic processes and flood hazards can be minimized or mitigated. A fixed pier, landward of a floating dock, which connects to the shore at one end and to the floating dock by a gangway at the other is allowed.

    b. Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat (-15 feet CRD on the Columbia River).

    c. The moorage facility may extend into the waterbody the minimum distance necessary to allow for moorage of the boats anticipated but in no instance more than 300’ beyond the OHWM.

    d. The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.

    e. Piers and ramps shall be no more than 8 feet in width. Finger piers shall be no more than 8 feet wide and 45 feet long. Piers, ramps and docks shall be constructed to allow a minimum of 60% light penetration over 60% of each structure.

f. Skirting shall not be placed on piers, ramps, floating docks, or floats. Protective bumper material will be allowed along the outside edge of the float or floating dock as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

g. Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, and shall be sized no larger than 4-feet wide by 4-feet long, unless otherwise approved by National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), the US Army Corps of Engineers (Corps), and Washington Department of Fish and Wildlife (WDFW).

h. Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water.

i. Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.

j. All docks and floats shall include stops that serve to keep the floats off the lake bottom or river bed at low water levels. If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

k. Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

6.3.3.5 Moorage Facilities: Docks, Piers, and Mooring Buoys

1. Mooring buoys shall be used instead of docks and piers whenever feasible.

2. Mooring buoys shall be placed as specified by WDFW, DNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.

3. Mooring buoys shall be discernible from a distance of at least one hundred (100) yards. One (1) mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant and documented by the City. In cases such as those of a community park with recreational users or a residential development with lot owners both on and away from the shoreline needing moorage, community moorage facilities shall be used instead of mooring buoys.

4. Docks and piers for water-dependent commercial and industrial uses shall be allowed to the outer harbor line or combined U.S. Pierhead/Bulkhead line but no more than that required for the draft of the largest vessel expected to moor at the facility. These provisions are also applicable to multiple-use facilities where the majority use is water-dependent and public access can safely be provided.

5. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.

6. Recreational floats shall be designed and constructed to meet the following standards:

    a. They shall be located as close to the shore as possible, and no farther waterward than any existing floats and established swimming areas.

    b. They shall be constructed so that the deck surface is a minimum of one (1) foot above the water surface and with reflectors for night-time visibility.

    c. Floats serving the public, a subdivision, a multi-family development, a hotel, motel, or multiple property owners shall not exceed one hundred sixty (160) square feet and shall be constructed to allow a minimum of 60% light penetration over 60% of the structure.

6.3.4 Commercial Uses

1. Water-oriented commercial uses are preferred over nonwater-oriented commercial uses.

2. An applicant for a new commercial use or development shall demonstrate that the use or development will not cause a net loss of ecological function or adversely impact other shoreline resources or uses.

3. Loading, service areas, and other accessory uses shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.

4. Where allowed, nonwater-oriented commercial uses may be permitted only as part of a mixed-use development that:

    a. Has a formally-approved master plan that complies with this Program, including having demonstrated consistency with the policies of Section 3.2 if its proposed location is on a shoreline of statewide significance;

    b. Includes water-oriented uses; and

    c. Provides a significant public benefit such as public access and/or ecological restoration.

5. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:

    a. Up to 85% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or

    b. Up to 85% of the project area within shoreline jurisdiction of all parcels in the development (regardless of ownership).

6. Nonwater-oriented commercial uses meeting the conditions of Section 6.3.4(4) and not located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District) may occupy:

    a. Up to 25% of the total frontage length of all parcels in the master-planned development (regardless of ownership); or

    b. Up to 25% of the total project area within shoreline jurisdiction of all parcels in the master-planned development (regardless of ownership).

7. When a new, mixed-use commercial development meets all applicable provisions of Section 6.3.4, Section 5.8.1, and this Program and:

    a. Is located in a High Intensity shoreline designation on the Columbia River between the eastern boundary of Wintler Park and the railroad bridge (Columbia River Shoreline Enhancement Plan District);

    b. Has a formally-approved master plan that complies with this Program including having demonstrated consistency with the policies of Section 3.2;

    c. Includes water-oriented uses;

    d. Provides public access to the shoreline; and

    e. Restores degraded shorelines,

    Building heights for commercial development in the High Intensity shoreline designation in Table 6-1 may be increased in accordance with the underlying zoning.

6.3.5 Forest Practices

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, RCW 76.09 as

amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources.

2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six years from date of Forest Practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470.

3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of the statewide significance, Ecology or the City shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten- (10-) year period of time; provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be allowed by conditional use only.

4. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including vegetation conservation.

6.3.6 Industrial Uses

6.3.6.1 General Requirements

1. Water-oriented industrial uses and development are preferred over nonwater-oriented industrial uses and development.

2. Water-related uses shall not displace existing water-dependent uses or occupy space designated for water-dependent uses identified in a substantial development permit or other approval.

3. Water-enjoyment uses shall not displace existing water-dependent or water-related uses or occupy space designated for water-dependent or water-related uses identified in a substantial development permit or other approval.

4. Waterward expansion of existing non-water-oriented industry is prohibited.

5. Proposed developments shall maximize the use of legally-established existing industrial facilities and avoid duplication of dock or pier facilities before

expanding into undeveloped areas or building new facilities. Proposals for new industrial and port developments shall demonstrate the need for expansion into an undeveloped area.

6. Proposed large-scale industrial developments or major expansions shall be consistent with an officially-adopted comprehensive scheme of harbor improvement and/or long-range port development plan.

7. New facilities for shallow-draft shipping shall not be allowed to preempt deep-draft industrial sites.

8. Ship, boat-building, and repair yards shall employ best management practices (BMPs) with regard to the various services and activities they perform and their impacts on surrounding water quality.

9. Industrial water treatment and water reclamation facilities may be permitted only as conditional uses and only upon demonstrating that they cannot be located outside of shoreline jurisdiction. They shall be designed and located to be compatible with recreational, residential, or other public uses of the water and shorelands.

6.3.6.2 Log Storage

1. Log booming, rafting and storage in the Aquatic shoreline designation shall comply with WAC 332-30-145 or its successor.

2. Log storage shall be permitted in public waters only where:

   a. water quality standards can be met at all times;

   b. grounding will not occur;

   c. associated activities will not hinder other beneficial uses of the water, such as small craft navigation; and

   d. fish and wildlife habitat conservation areas can be avoided.

3. No log raft shall remain in the Aquatic shoreline designation for more than one year, unless specifically authorized in writing by DNR.

4. Log storage facilities shall be sited to avoid and minimize the need for dredging in order to accommodate new barging and shall be located in existing developed areas to the greatest extent feasible. If a new log storage facility is proposed along an undeveloped shoreline, an alternatives analysis shall be required that demonstrates that it is not feasible to locate the facility within an existing developed area.

5. A Debris Management Plan describing the removal and disposal of wood waste must be approved by the City. Debris monitoring reports shall be provided, where stipulated. Positive control, collection, treatment, and disposal methods for keeping leachate, bark, and wood debris (both floating and sinking particles) out of surface water and groundwater shall be employed at log storage areas, log dumps, raft building areas, and mill-side handling zones. In the event that bark or wood debris accidentally enters the water, it shall be immediately removed. Surface runoff from log storage areas shall be collected and discharged at only one point, if possible.

6. Existing in-water log storage and log booming facilities in critical habitats utilized by threatened or endangered species classified under the Endangered Species Act (ESA) shall be re-evaluated if use is discontinued for one (1) year, or if substantial repair or reconstruction is required. The evaluation shall include an alternatives analysis in order to determine if logs can be stored upland and out of the water, or if the site should be used for other purposes that would have lesser impacts on ESA-listed species. The alternatives analysis shall include evaluation of the potential for moving all, or portions of, log storage and booming to uplands.

7. Non-aquatic log storage areas shall meet the following requirements:

    a. The ground surface of any unpaved log storage area underlain by permeable soils shall be separated from the highest seasonal water table by at least four (4) feet in order to reduce waste buildup and impacts on ground water and surface water;

    b. Stormwater shall be managed consistent with VMC Chapter 14.25; and

    c. A berm must be located around the outer edge of the upland sort surface using rocks, or other suitable materials to prevent loss of wood debris into the water.

6.3.7 Institutional Uses

1. Water-oriented institutional uses and developments are preferred.

2. Where allowed, nonwater-oriented institutional uses may be permitted as part of a mixed-use development provided that a significant public benefit such as public access and/or ecological restoration are provided.

3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.

4. Where institutional uses are allowed as a conditional use, the following must be demonstrated:

a. A water dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features of the site, or due to the site's separation from the water;

b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and

c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, ecological function, and/or access to the shoreline.

5. Over-water structures housing public safety equipment for public agency use to protect people, property, and the environment may be allowed as a conditional use and may be increased in number or expanded. See Section 6.3.3.3(10) and (11).

6.3.8 Mining

1. An applicant for mining and associated activities within shoreline jurisdiction shall demonstrate that the proposed activities are dependent on a shoreline location consistent with this Program and WAC 173-26-201(2)(a).

2. Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes, and will only be allowed if they will not cause:

   a. Damage to or potential weakening of the structural integrity of the shoreline zone that would change existing aquatic habitat or aquatic flow characteristics;

   b. Changes in the water or exchange of water to or from adjacent water bodies that would damage aquatic or shoreline habitat; and

   c. Changes in groundwater or surface water flow that would be detrimental to aquatic habitat, shoreline habitat, or ground water.

3. Mining within the active channel(s) or channel migration zone of a stream shall not be permitted unless:

   a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect instream habitat or the natural processes of gravel transport for the stream system as a whole.

   b. The mining and any associated permitted activities, such as flood hazard reduction, will not have significant adverse impacts to habitat for priority species nor cause a net loss of shoreline ecological functions.

4. The applicant shall obtain and comply fully with all required local, state, and federal permits and approvals, including but not limited to, Hydraulic Project Approvals (HPA) from WDFW.

5. A reclamation plan that complies with the format and detailed minimum standards of RCW 78.44 and WAC 332-18 and that meets the provisions of this Program shall be included with any shoreline permit application for mining. The proposed subsequent use of mined property must be consistent with the provisions of the shoreline designation in which the property is located and the applicant shall obtain and fully comply with all required permits and approvals. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the setting.

6. Aggregate washing and ponding of waste water are prohibited in floodways.

7. Disposal of overburden or other mining spoil or non-organic solid wastes shall comply with fill policies and regulations of this Program and other applicable regulations.

8. In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, the City shall require compliance with this Program.

9. Where a lawfully-established mining operation has resulted in the creation of a lake(s) greater than 20-acres and such lake(s) is subject to the provisions of the Shoreline Management Program and the Act, such lake(s) shall be given a shoreline designation of Rural Conservancy – Resource Lands or as otherwise adopted. Notwithstanding any other applicable regulations, such mining operations shall be permitted to continue and may be expanded subject to approval of a shoreline conditional use permit.

10. The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231.

6.3.9 Parking

1. Parking as a primary use is prohibited in all shoreline areas.

2. Temporary storage of vehicles for import or export in port areas shall not be considered parking.

3. Temporary storage of vehicles for import or export in port areas is prohibited over water.

4. Where parking is allowed as accessory to a permitted use, it shall be located landward of the primary structure as far as possible or within the primary structure.

6.3.10 Recreational Uses

1. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths.

2. The minimum width of public access easements for trails shall be twenty (20) feet when a trail is not located within a public right-of-way, unless the Shoreline Administrator determines that undue hardship would result, or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards.

3. Recreation areas or facilities on the shoreline shall provide physical or visual public access to the shoreline. Trails or other facilities may traverse the setback to provide public access to the shoreline.

4. Parking areas shall be located upland away from the immediate shoreline, with pedestrian trails or walkways providing access to the water.

5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for non-intensive minor accessory uses (including but not limited to, picnic tables, playground equipment).

6. Recreational sites with active uses shall be provided with restrooms and hand sanitizing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.

7. Recreational facilities shall include features such as buffer strips, screening, fences, and signs to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.

8. Where fertilizers and pesticides are used in recreational developments, waters in and adjacent to such developments shall be protected from drainage and surface runoff.

9. Golf course structures (clubhouses and maintenance buildings) that are non water-oriented shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.

10. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state to the extent practicable. Where unavoidable, such development shall be designed to minimize impacts to shoreline and critical areas and their buffers and mitigate impacts by including ecological restoration and enhancement.

11. Golf course water hazards and stormwater drainage basins shall be managed for wildlife through appropriate plantings and measures to maintain or enhance water quality.

12. The setback for water-related and water-enjoyment recreational development in Natural, Urban Conservancy, and Medium Intensity shoreline designations is 50

feet, except for trails which may meander between 20 and 50 feet landward of the OHWM to:

a. Respond to site characteristics such as natural topography and existing vegetation; or

b. Take advantage of opportunities for visual or physical access to the shoreline; or

c. Connect existing trail easements; or

d. Create an interesting experience for trail users.

13. A trail project, any portion of which encroaches closer than 50 feet, shall maintain no net loss, and include shoreline restoration where feasible.

14. The following trail types as described in the Vancouver-Clark Parks & Recreation Regional Trails and Bikeway Systems Plan (2006) and the Paths & Trails Element of the Vancouver Walking and Bicycling Master Plan (2004) are preferred in the Natural shoreline designation:

    a. Type A3: Primitive Trails or Paths

    b. Type C2: Walking Trails or Paths

    c. Type D1: Equestrian Trails or Paths

15. When regional or local shared-use or other impervious surface trails are proposed in the Natural or Urban Conservancy shoreline designations, to respond to Americans with Disabilities Act (ADA) requirements or other circumstances or conditions, the project shall maintain no net loss, and include shoreline restoration where feasible.

6.3.11 Residential Development

6.3.11.1 Residential Development

1. Residential developments shall include provisions to ensure preservation of native vegetation and control erosion during construction.

2. New residential construction shall be located so as not to require shoreline stabilization measures.

3. New residential development shall be located and designed to a density that minimizes view obstructions to and from the shoreline.

4. Clustering of residential units shall be allowed where appropriate and in compliance with VMC Title 20 to minimize physical and visual impacts on shorelines.

5. In those areas where only onsite sewage systems are available, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.

6. New residential development, including sewage disposal systems, shall be prohibited in floodways and channel migration zones.

7. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks, critical areas, and buffers unless otherwise allowed under this Program to promote community access and recreational opportunities.

8. New residential lots created through land division in shoreline jurisdiction and lot line adjustments shall only be permitted when configured such that the following standards are met:

    a. Structural flood hazard reduction measures are not required and will not be necessary during the life of the development or use.

    b. Shoreline stabilization measures will not be required for new development to occur.

    c. There will be no net loss of shoreline ecological function.

9. Legally-established residential development located landward of the OHWM, including normal appurtenances, existing on the effective date of this Program that do not meet the standards of this Program are considered to be conforming and may be maintained, repaired, replaced, or expanded provided that any future development:

    a. Does not exceed height limitations;

    b. Does not encroach farther waterward than the existing primary structure;

    c. Does not encroach farther into critical areas or buffers; and.

    d. Will result in no net loss of shoreline ecological functions.

6.3.11.2 Floating Home Development

1. New residential development shall be prohibited in, over, or floating on the water, except as provided in 6.3.11.2(1-6).

2. The floating homes legally established prior to January 1, 2011, are conforming preferred uses under this Program.

3. Floating homes legally established prior to January 1, 2011 may be remodeled, rebuilt (home torn down to the float and rebuilt in place), or replaced (existing home and float removed and a new home and float towed in) in situ, PROVIDED:

a. There is no increase in the number of floating homes beyond the number existing on January 1, 2011;

b. There is no increase in the surface water area covered by the floating homes existing on January 1, 2011 and accessory structures including cantilevered portions that extend beyond the float;

c. There is no net loss of shoreline ecological function.

4. Any proposal to replace, remodel, or rebuild a floating home shall be accompanied by an accurate, fully-dimensioned site plan along with details about the proposed changes, similar to that required for other land use approvals under VMC Title 20.

5. When remodeling, rebuilding, or replacing a floating home legally established prior to January 1, 2011 the following standards apply in addition to those of Section 6.3.11(1-4):

a. The total height of the float and the structure from the water surface shall not exceed its existing height;

b. The minimum distance between existing adjacent floating home walls shall not be reduced, and if the floating home is being replaced shall not be less than 6 feet;

c. Floating homes shall not block views from the waterward end of any pier, more than any existing view blockage;

d. No new living or storage spaces shall be located below water level. Existing living or storage spaces below water level may be remodeled or replaced, but not expanded;

e. Unenclosed Styrofoam or similar material that has the potential to break apart is prohibited in floats;

f. Floats shall be maintained and repaired using the minimum amount of structure below the waterline necessary to maintain floatation. At the time of replacement of a float and/or floating home, any structure below waterline and outside the primary float structure that provides minimal or no floatation shall be removed;

g. All utilities shall be repaired or replaced to current standards to ensure proper functioning and no net loss of shoreline ecological functions.

6.3.12 Signs

1. Free-standing signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in Table 6-1.

2. Signs for commercial purposes shall be limited to fascia or wall signs and as regulated by VMC Chapter 20.960, unless otherwise provided for in this chapter for specific uses.

3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.

4. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.

5. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.

6.3.13 Transportation Uses

1. All transportation facilities in shoreline areas shall be constructed and maintained to cause the least possible adverse impacts on the land and water environments, shall respect the natural character of the shoreline, and make every effort to preserve wildlife, aquatic life and their habitats.

2. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible, or set back from the ordinary high water mark far enough to make shoreline stabilization, such as rip rap, bulkheads or jetties, unnecessary.

3. Transportation facilities shall not adversely impact existing or planned water-dependent uses by impairing access to the shoreline.

4. All roads shall be set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.

5. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible to reduce shade impacts. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.

6. Transportation facility development shall not be permitted in the Aquatic shoreline designation including associated wetlands or in the setbacks of adjacent

Medium Intensity or High Intensity shoreline designations except as a conditional use when:

a. All structural or upland alternatives have proven infeasible; and

b. The transportation facility is necessary to support water-dependent uses or essential public facilities consistent with this program.

7. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies.

6.3.14 Utilities Uses

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are "accessory utilities" and shall be considered a part of the primary use.

1. Whenever feasible, all utility facilities shall be located outside shoreline jurisdiction. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground.

2. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.

3. Utilities, including limited utility extensions shall be designed, located and installed in such a way as to preserve the natural landscape, minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.

4. Transmission, distribution, and conveyance facilities shall be located in existing rights of way and corridors or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

5. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are nonwater-oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.

6. Stormwater control facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the stormwater facility is designed to mimic and resemble natural wetlands, ponds, or closed depressions, and meets the requirements of VMC 14.25, Stormwater Control.

7. New outfalls and modifications to existing outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. Outfalls may require bank hardening to prevent failure of the outfall structure or erosion of the shoreline. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to nearshore habitats.

8. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction, unless the discharge water meets State Department of Ecology Class A reclaimed water standards. An applicant for discharge of Class A reclaimed water in the shoreline jurisdiction shall demonstrate habitat benefits of such discharge.

9. Where allowed under this program, construction of underwater utilities or those within the wetland perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.

10. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall be equipped with automatic shut off valves.

11. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

6.4 Shoreline Modification Regulations

6.4.1 General Requirements

1. Structural shoreline modifications shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect legally existing shoreline use or primary structure that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline or bedlands for an allowed water-dependent use or for shoreline mitigation or enhancement purposes.
2. Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.
3. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
4. Public access shall be provided in accordance with public access policies and regulations of this Program (See Section 5.4(1-2).

6.4.2 Dredging and Dredge Material Disposal

6.4.2.1 General

1. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.

2. Dredging and dredge disposal shall be scheduled to protect biological productivity (including but not limited to, fish runs, spawning, and benthic productivity) and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (including but not limited to, drift netting and crabbing) during a fishing season unless specifically addressed and mitigated for in the permit.

6.4.2.2 Dredging

1. Dredging shall be avoided where possible. Dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines unless one or more of these impacts cannot be avoided. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.

2. Maintenance dredging of established navigation channels and basins shall be restricted to managing previously dredged and/or existing authorized location, depth and width.

3. Dredging shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless shallow water habitat will be created to mitigate for the dredging project.

4. Dredging activity is prohibited in the following locations:

    a. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered, or irretrievably lost;

    b. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity which result in the need for continual maintenance dredging;

    c. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.

5. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.

6. Dredging shall be permitted only:

    a. For navigation or navigational access;

    b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;

    c. As part of an approved habitat improvement project;

    d. To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;

    e. 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

    f. To acquire sand and gravel for commercial purposes from within the Columbia River.

7. Dredging for fill is prohibited except where the material is necessary for restoration of shoreline ecological functions.

6.4.2.3 Dredge Material Disposal

1. Dredge material disposal shall be avoided where possible. Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.

2. Near shore or landside disposal of dredge materials shall not be located upon, adversely affect, or diminish:

    a. Stream mouths, wetlands, or significant plant communities (approved mitigation plans may justify exceptions);

    b. Prime agricultural land except as enhancement;

    c. Natural resources including but not limited to sand and gravel deposits, timber, or natural recreational beaches and waters except for enhancement purposes;

d. Designated or officially recognized wildlife habitat and concentration areas;

e. Water quality, quantity, and drainage characteristics; and

f. Public access to shorelines and water bodies.

3. Dredged material shall be disposed of on land only at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this Program. Disposal shall be undertaken such that:

   a. The smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;

   b. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water;

   c. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property; and

   d. Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.

4. The following conditions shall apply to land disposal sites:

   a. Springs and aquifers shall be identified and protected.

   b. Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.

   c. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.

   d. There shall be a single point of ingress and egress for removal of the de-watered material.

   e. Runoff shall be directed through grassy swales or other treatment features that assures protection of water quality and a location that maximizes circulation and fishing.

   f. Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions;

   g. Vegetation shall be maintained by the property owner;

h. Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within shoreline jurisdiction, shall comply with the fill regulations; and

i. The applicable requirements of VMC 14.24, 14.25, and 14.26 shall be met.

5. Dredged material shall be disposed of in water only at sites approved by the USACOE and the Shoreline Administrator. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:

   a. Land disposal is infeasible, less consistent with this Program, or prohibited by law;

   b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;

   c. Offshore habitat will be protected, restored, or enhanced;

   d. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;

   e. Shifting and dispersal of spoil will be minimal; and

   f. Water quality will not be adversely affected.

6. The deposition of dredged materials in water or wetlands shall be permitted only in approved, open water disposal sites and:

   a. To improve wildlife habitat;

   b. To correct material distribution problems adversely affecting fish habitat;

   c. To create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit; or

   d. When land deposition is demonstrated to be more detrimental to shoreline resources than water deposition.

6.4.3 Flood Control Works and In-stream Structures

6.4.3.1 Flood Control Works

1. Dikes and levees shall only be authorized by conditional use permit only when it can be demonstrated by a scientific and engineering analysis that:

   a. They are necessary to protect existing development;

   b. Nonstructural measures are not feasible;

c. Impacts on ecological functions and critical areas can be successfully mitigated so as to assure no net loss; and

d. Appropriate vegetation conservation actions are undertaken.

2. Dikes and levees shall protect the natural processes and resource values associated with streamways and deltas including but not limited to wildlife habitat.

3. Springs and aquifers shall be identified and protected.

4. Public access shall be provided in accordance with public access policies and regulations of this Program (See Section 5.4(1-2)).

5. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the protected flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification.

6. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat enhancement plan, and the only by conditional use.

7. Removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological functions, and is part of a comprehensive flood management solution.

6.4.3.2 Flood Control Works – Design

1. Dikes and levees shall be designed, constructed, and maintained in accordance with Hydraulic Project Approval, and in consideration of resource agency requirements and recommendations.

2. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off point bars from the edge of the floodway, consideration should be given to their relocation in order to lower flood stages and current velocities.

3. Where dikes are necessary in intermediate gradient floodways to protect fringe areas, tangent diking is preferred over bank levees. Dikes and levees shall be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity.

4. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.

5. The outside face of dikes shall be sloped at 1.5:1 (horizontal to vertical) or flatter, and seeded with native grasses.

6. Structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas unless there is no other feasible alternative to reduce flood hazard to existing development.

6.4.3.3 In-stream Structures

1. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City may condition the permit to achieve this objective by requiring that the development include features such as setbacks, buffers, or storage basins.

2. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline ecological function or are a threat to public safety.

3. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable.

4. In-stream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided banks.

6.4.3.4 In-stream Structures – Design & Placement

1. In-stream structures and their support facilities shall be located and designed to avoid the necessity for shoreline defense structures. Shoreline defense structures shall be minimized and any impacts mitigated. All diversion structures shall be designed to permit natural transport of bedload materials.

2. Materials adequate to immediately correct emergency erosion situations shall be maintained on-site.

3. All debris, overburden and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body, including a wetland, by erosion, from drainage, high water, or other vectoring mechanisms.

4. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline ecological functions. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and mitigated. Penstocks shall be located, designed, and constructed so as to

present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.

5. A mitigation plan that details the objectives of the mitigation activities shall be prepared by the applicant, and be subject to approval by the appropriate authority.

6.4.4 Shoreline Restoration and Enhancement

1. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species and shall be given priority. Implementation of restoration projects on shorelines of statewide significance take precedence over implementation of restoration projects on other shorelines of the state.

2. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the city in achieving no net loss of shoreline ecological functions are preferred.

3. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this Program.

4. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts. Implementation of restoration projects identified in the Shoreline Restoration Plan that are focused on restoring degraded habitat in shoreline jurisdiction take precedence over other restoration projects.

5. Habitat and beach creation, expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:

    a. The project will not adversely impact spawning, nesting, or breeding fish and wildlife habitat conservation areas;

    b. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected.

    c. Water quality will not be degraded;

    d. Flood storage capacity will not be degraded;

    e. Streamflow will not be reduced;

    f. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and

g. The project will not interfere with the normal public use of the navigable waters of the state.

6.4.5 Shoreline Stabilization – General

1. New shoreline stabilization to protect new residential development is prohibited. For other types of new development new shoreline stabilization is prohibited unless it can be demonstrated through a geotechnical analysis by a qualified professional that:

   a. The proposed use cannot be developed without shore protection; or

   b. Shore protection is necessary to restore ecological functions; or

   c. Shore protection is necessary for a hazardous substance remediation project.

2. New or expanded shore stabilization shall:

   a. Be designed using best available science and in accordance with applicable Ecology and WDFW guidelines;

   b. Not result in a net loss of shoreline ecological functions;

   c. Not cause significant erosion or beach starvation;

   d. Not be located where valuable geohydraulic, hydraulic, or biological processes are sensitive to interference and critical to shoreline conservation;

   e. Document that alternative solutions (including relocation or reconstruction of existing structures) are not feasible or do not provide sufficient protection;

   f. Demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and

   g. Be certified by a qualified professional.

3. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.

4. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.

5. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or wave action; provided that, the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the structure is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. New or expanded shore stabilization shall be designed in accordance with applicable Ecology and WDFW guidelines and certified by a qualified professional.

6. Shoreline stabilization projects that meet the criteria of Section 2.3.2(18) require a statement of exemption (Section 2.3.3) and if exempt will be regulated under RCW 77.55.181. Stabilization projects that do not meet these criteria will be regulated by this Program.

7. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.

8. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.

9. Standards for new stabilization structures when found to be necessary include limiting the size to the minimum necessary to achieve the stabilization objective, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

6.4.6 Bioengineered Stabilization

1. Naturally regenerating systems for the prevention and control of shoreline erosion shall be used instead of structural solutions where:

   a. The length and configuration of shoreline will accommodate such systems;

   b. Such protection is a reasonable solution to the needs of the specific site; and

   c. The project will:

      i. Recreate or enhance natural shoreline conditions;

      ii. Create or enhance natural habitat;

      iii. Reverse erosional conditions; or

iv. Enhance access to the shoreline, especially to public shorelines.

2. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.

3. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three years time all vegetation is fully re-established. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.

4. Bank protection in the form of a buffer zone shall be provided for a minimum of three (3) years. The buffer zone shall exclude livestock, vehicles, and/or other activities that could disturb the site.

5. All bioengineered projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

6. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

6.4.7 Structural Stabilization

1. Structural stabilization may be allowed when:

   a. The requirements of Section 6.4.5 are met;

   b. Alternative measures are demonstrated to be infeasible or insufficient through a geotechnical analysis by a qualified professional;

   c. The structural stabilization is designed and installation overseen by a qualified professional;

   d. The structural stabilization is designed so that future stabilization measures will not be necessary on the subject property or other properties;

   e. The size of the shoreline stabilization structure is limited to the minimum necessary; and

   f. Impacts are mitigated to result in no net loss of shoreline ecological functions.

6.4.8 Bulkheads

6.4.8.1 Bulkheads - General

1. All bulkheads must be in support of an allowable shoreline use that is in conformance with the provisions of this master program, unless it can be

demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

2. Bulkheads shall be allowed only when evidence is presented that conclusively demonstrates that one of the following conditions exists:

    a. Serious wave erosion threatens an established primary use or existing primary building(s) on upland property;

    b. Bulkheads are necessary to the operation and location of water-dependent and water-related activities consistent with this master program, provided that all alternatives have proven infeasible (i.e., use relocation, use design, nonstructural shore stabilization options), and that such bulkheads meet other policies and regulations of this chapter; or

    c. Proposals for bulkheads have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.

3. Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited.

4. Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.

5. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit shall be prohibited.

6. Bulkheads are prohibited for any purpose if they will cause significant erosion or beach starvation.

6.4.8.2 Bulkhead Location

1. Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marches, wetlands, or accretion shoreforms such as spits, hooks, bars, or barrier beaches.

2. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.

3. On all shorelines, bulkheads shall be located landward of the OHWM, landward of protective berms (artificial or natural), and generally parallel to the natural shoreline. In addition:

a. On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank; and

b. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that (1) the adjoining bulkheads were built at or near the OHWM, and (2) the new bulkhead does not extend more than three feet waterward of OHWM at any point. If there is an existing bulkhead on only one of the adjacent properties, the proposed bulkhead may tie in flush with the adjacent bulkhead at or landward of the OHWM, and shall be contoured to minimize the land area waterward of the required setback, that shall be met on the side not abutting an existing bulkhead.

4. Replacement bulkheads may be located immediately in front of and abutting (sharing a common surface) an existing bulkhead, provided that replacement bulkheads shall not be authorized abutting an abandoned or neglected bulkhead, or a bulkhead in serious disrepair that is located more than three feet waterward of OHWM. Replacement of such bulkheads shall be located at OHWM.

6.4.8.3 **Bulkhead Design**

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of bulkheads.

2. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.

3. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development for the expected life of the development.

4. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

5. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.

6. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of it.

7. Materials used in bulkhead construction shall meet the following standards:

   a. Bulkheads shall utilize stable, non-erosional, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials that will accomplish the desired end with the maximum preservation of natural shoreline characteristics.

b. Beach materials shall not be used for fill behind bulkheads unless it is specifically authorized by the permit, and then only when it is demonstrated that leaving the material on the beach would be detrimental to shoreline resources.

8. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this Program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.

9. Fill behind bulkheads shall meet the requirements of Section 5.6.2.

6.4.9 Revetments

6.4.9.1 Revetments - General

1. Revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

2. Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.

3. Design of the proposed revetment shall incorporate proper consideration of:

   a. Data on local geophysical conditions;

   b. Data on stream flow, velocity, and/or flood capacity; and

   c. Effects on adjacent properties.

4. Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.

5. Revetments shall only be used when habitat-friendly alternatives are not feasible.

6.4.9.2 Revetment - Design

1. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and the U. S. Army Corps of Engineers.

2. Revetment shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water

quality, vegetation, and aesthetics. The following techniques and materials shall be used:

a. Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires, automobile bodies, scrap metal paper products, and other inappropriate solid waste materials shall not be used for riprap.

b. Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design where appropriate.

c. Where on-site environmental conditions allow, vegetation shall be integrated into the riprap design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the shoreline, consistent with the applicable vegetation management provisions of this Program.

3. If an armored revetment is employed, the following design criteria shall be met.

   a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;

   b. Filter cloth must be used to aid drainage and help prevent settling; and

   c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the project.

4. The area shall be restored as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

6.4.10 Breakwaters, Jetties, Rock Weirs, and Groins

6.4.10.1 Breakwaters, Jetties, Rock Weirs, and Groins - General

1. All breakwaters, jetties, rock weirs, and groins are allowed only by conditional use and where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Applicants proposing groins, jetties, and solid breakwaters shall notify all shoreline landowners within the same drift sector. If it is not possible to make a reasonable determination of the drift sector, all shoreline land owners within one mile of the project proposal shall be notified.

3. The effect of proposed breakwaters, jetties, rock weirs, and groins on sand movement shall be evaluated during permit review. The beneficiaries and/or owners of large-scale defense works that substantially alter, reduce, or block

littoral drift, and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach feeding program either by artificially transporting sand to the downdrift side of an inlet with jetties or by artificial beach feeding in the case of groins, breakwaters, and rock weirs.

4. The effect of proposed breakwaters, jetties, rock weirs, and groins on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

6.4.10.2 Breakwaters, Jetties, Rock Weirs, and Groins - Location

1. Breakwaters shall be prohibited in lakes.

2. Jetty, rock weir, or groin development that would result in a net adverse impact on adjacent and nearby properties and shorelines is prohibited.

6.4.10.3 Breakwaters, Jetties, Rock Weirs, and Groins – Design

1. Proposed designs for new or expanded breakwaters, jetties, rock weirs, and groins shall be designed and certified by a registered civil engineer.

2. The design of breakwaters, jetties, rock weirs, and groins shall conform to all applicable requirements established by the Washington Departments of Fish and Wildlife, and the U.S. Army Corps of Engineers. Breakwaters, jetties, rock weirs, and groins shall be designed and constructed in a manner that will prevent detrimental impacts on water circulation, sand movement, and aquatic life. The design shall also minimize impediments to navigation and to visual access from the shoreline.

3. The design of new breakwaters, groins, and jetties shall incorporate provisions for public access such as sightseeing and public fishing if it is determined such access is feasible and desirable. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately mitigated.

4. Materials used for the construction of breakwaters, jetties, rock weirs, and groins shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.

5. Floating breakwaters shall be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

CHAPTER 7 ADMINISTRATION AND ENFORCEMENT

7.1 General Provisions

1. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Act and this Program.

2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a Shoreline Substantial Development Permit (SDP) but shall conform to the policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (SOE) (Sections 2.3.3 and 7.2.7).

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.

4. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

5. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.

6. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application

7. The City shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.

8. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

9. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a Shoreline Conditional Use Permit (SCUP) even if the development or use does not require a substantial development permit.

10. Issuance of a Shoreline Substantial Development Permit, Shoreline Variance (SV) or Shoreline Conditional Use Permit does not constitute approval pursuant to any other federal, state or City laws or regulations.

11. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

12. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Chapters 5.3 and 5A) shall be reviewed for compliance with this Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:

    a. Statement of Exemption;

    b. Land Use Permit or Building Permit;

    c. Excavation, Grading, Clearing and Erosion Control Permit;

    d. SEPA Threshold Determination;

    e. Shoreline Substantial Development Permit;

    f. Shoreline Conditional Use Permit;

    g. Shoreline Variance; or

    h. Revisions to Shoreline Permits.

13. Habitats of Local Importance may be proposed by the property owner or the City (Chapter 5A, VMC 20.740.100) and shall be designated according to a Type IV legislative procedure (VMC 20.210.070).

7.2 Administrative Authority and Responsibility

7.2.1 Shoreline Administrator

1. The responsible official or his/her designee is the Shoreline Administrator for the City.

2. The Shoreline Administrator shall have the authority to act upon the following matters:

    a. Administrative Interpretations

b. Requests for Statements of Exemption

c. Applications for Shoreline Substantial Development Permits;

d. Modifications or revisions to Statements of Exemption or Shoreline Substantial Development Permits;

e. Other duties and responsibilities as assigned in this Program.

3. The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191.

7.2.2 City Hearing Examiner

1. The City Hearing Examiner shall be responsible for making final determinations on appeals of:

   a. Statements of Exemption;

   b. Shoreline Substantial Development Permits; and

   c. Revisions to Statements of Exemption and Shoreline Substantial Development Permits.

2. The City Hearing Examiner shall be responsible for making recommendations to Ecology on:

   a. Applications for Shoreline Conditional Use Permits;

   b. Applications for Shoreline Variances; and

   c. Applications for Shoreline Substantial Development Permits in conjunction with a required Shoreline Conditional Use Permit or Shoreline Variance.

3. The City Hearing Examiner shall be responsible for rescinding approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances (Section 7.8).

7.2.3 City Planning Commission

The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100.

2. Review and adjustments. Periodic review of this Program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be

made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

7.2.4 City Council

1. The City Council shall consider appeals of the Hearing Examiner decision on proposals that include Shoreline Conditional Use Permits, Shoreline Variances, and SSDPs processed in conjunction with SCUPs and/or SVs.

2. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program at the local level. The local plan shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision. The Program adopted by the City Council shall be submitted to Ecology for review and adoption. Ecology must approve all master programs before they become effective.

7.2.5 State Department of Ecology and Attorney General

1. The duties and responsibilities of Ecology shall include, but are not limited to the following:

   a. Reviewing and approving Program amendments prepared by the City pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).

   b. Reviewing and petitioning for review of the City's Statement of Exemption and Shoreline Substantial Development Permit decisions.

   c. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

7.3 Master Program Amendments

1. This Program shall be periodically reviewed no later than eight (8) years following its approval by Ecology and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public. The Program shall be consistent with the City comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.

2. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to this Program, as provided by law, do not become effective until approved by Ecology.

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3. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

7.4 Permitting Procedures

7.4.1 Administrative Interpretations

1. Interpretation, enforcement, and administration of this Program shall be in conformance with the provisions of WAC 173-26-140. The City establishes the following procedures for processing Administrative Interpretations:

    a. Application. Any person may request in writing the Shoreline Administrator's interpretation of a code provision of this Program when it pertains to a specific property or project by means of a Type I application pursuant to Section 20.210.040 VMC.

    b. The Shoreline Administrator may independently initiate an interpretation of any conflicting or unclear provisions of this Program.

    c. Consultation with the Ecology. Prior to issuing an interpretation, the Shoreline Administrator shall formally consult with the Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.

    d. Catalog. To ensure that the Shoreline Adminstrator’s interpretations are applied consistently over time, the Shoreline Administrator shall catalog these interpretations. The Shoreline Administrator shall retain and maintain the catalog of interpretations.

7.4.2 Statement of Exemption

1. Any person requesting an exemption from the substantial development permit review procedures shall submit a completed application for Shoreline Exemption to the Shoreline Administrator.

2. Proposals for Statements of Exemption shall comply with the provisions of Section 2.3.3.

3. Applications for Statements of Exemption are to be processed using the Type I review procedures as set forth in VMC 20.210.040. The Shoreline Administrator shall forward documentation of decisions on Statements of Exemption as required by Section 7.9 and WAC 173-27-130 or its successor.

7.4.3 Shoreline Substantial Development Permits

1. Applications for Shoreline Substantial Development Permits are to be processed using the Type II review procedures as set forth in VMC 20.210.050, **WITH THE**

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EXCEPTION THAT THE PUBLIC COMMENT PERIOD SHALL BE AT LEAST 30 DAYS (WAC 173-27-110(2)(e)).

2. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-150 and this Program, including the provisions of Section 2.2.

3. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.4.9, Ecology and WAC 173-27-130 or its successor.

7.4.4 Shoreline Conditional Use Permits

1. Shoreline Conditional Use Permits are required for any proposed use or development which is listed as a conditional use in this program and for any use not specifically addressed in this program. A Shoreline Conditional Use Permit cannot be used to allow any use or structure specifically prohibited by this program.

2. Shoreline Conditional Use Permit Review Procedures

   a. Applications for Shoreline Conditional Use Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120.

   b. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-160 and this Program, including the provisions of Section 2.7.

   c. Upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.4.9, Ecology and WAC 173-27-130 or its successor.

7.4.5 Shoreline Variance Permits

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

2. Shoreline Variance Permit Review Procedures

   a. Applications for Shoreline Variance Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120.

b. Applications shall be reviewed, and shall only be approved if the application conforms to the criteria for approval found in WAC 173-27-170 and this Program, including the provisions of Section 2.6.

c. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.4.9, Ecology and WAC 173-27-130 or its successor.

7.4.6 Revisions to Shoreline Permits

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

   When an applicant seeks to revise a permit, the applicant shall complete an application for Shoreline Permit Revision. The applicant shall provide detailed plans and text describing the proposed changes.

   a. If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.

   b. "Within the scope and intent of the original permit" means all of the following:

      i. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

      ii. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

      iii. The revised permit does 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;

      iv. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

      v. The use authorized pursuant to the original permit is not changed; and

      vi. No adverse environmental impact will be caused by the project revision.

c. 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.

d. If the sum of the revision and any previously approved revisions under WAC 173-27-100 or this section violate the provisions in subsection (b) of this section, local government shall require that the applicant apply for a new 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 Ecology. In addition, the Shoreline Administrator shall notify parties of record of the action.

f. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27.

   Upon receipt of Ecology’s final decision, the Shoreline Administrator shall within 14 days notify parties of record of Ecology's final decision.

g. The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under subsection (f) of this section, upon final action by Ecology.

h. Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (b) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

7.4.7 Hearings

1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently, including any accompanying environmental appeal, under VMC 20.210. Therefore, in this situation, applications for which the Shoreline Administrator has authority

shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.

2. Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit not processed in conjunction with an SCUP or SV may be appealed to the State Shorelines Hearing Board.

3. The Planning Commission may hold an open-record hearing on amendments to the SMP including map amendments, and forward a recommendation to the City Council. The City Council shall conduct an open-record hearing on same and forward a final recommendation to Ecology. Ecology's decision on an SMP amendment may be appealed to the Growth Management Hearings Board (GMHB) (See Section 7.8.4.5).

7.4.8 Appeals

7.4.8.1 Standing to Appeal

1. Shoreline Revisions (Type I decision). Only the applicant and property owner have standing to appeal a Shoreline Administrator's decision on a Shoreline Revision.

2. Shoreline Substantial Development Permits (Type II decision). The following parties have standing to appeal a Shoreline Administrator's decision on a Shoreline Substantial Development Permit to the Hearing Examiner:

   a. The applicant or owner of the subject property;

   b. Any party eligible for written notice of a pending Type II administrative decision.

   c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony.

3. Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Substantial Development Permits processed in conjunction with Shoreline Conditional Use Permits and/or Shoreline Variances (Type III decision). The following parties have standing to appeal the Hearing Examiner's recommendation to Ecology regarding Shoreline Conditional Use Permits and Shoreline Variances and/or the Hearing Examiner's decision on a Shoreline Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance to the City Council:

   a. The applicant or owner of the subject property;

   b. Any party who testified verbally or in writing at the public hearing;

c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony;

d. Any party who provides a written request for a copy of the notice of decision; and

e. City staff.

7.4.8.2 Filing Appeals

1. Statement of Exemption

   a. Scope. Any decision or ruling of the Shoreline Administrator on a Statement of Exemption may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may appeal the initial notice of decision or subsequent reconsideration to the City Hearing Examiner.

   b. Time Limit for Appealing. Appeals from decisions or rulings of the Shoreline Administrator shall be made within fourteen (14) calendar days of the date of the written order or within seven (7) calendar days of the date of issuance of the decision on a request for reconsideration.

   c. Form of Appeal. An appeal of the Shoreline Administrator's decision on a Statement of Exemption shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal. The following information, accompanied by an appeal fee as specified in VMC Chapter 20.210.130 shall be submitted:

      i. An indication of facts that establish the appellant's right to appeal.

      ii. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.

      iii. The requested relief from the decision being appealed.

      iv. Any other information reasonably necessary to make a decision on the appeal.

2. Shoreline Substantial Development Permits

   a. Scope. A decision of the Shoreline Administrator relating to a Shoreline Substantial Development Permit may be appealed to the Hearing Examiner to be processed as an open record hearing in conformance with the provisions of 7.4.8.3(3)(b-d).

b. Time limit for Appealing. The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.

c. Form of Appeal. An appeal of the Shoreline Administrator's decision on a Substantial Development Permit shall take the form of a written statement containing the following information:

i. The case number designated by the city and the name of the applicant;

ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline Administrator regarding the appeal, including notice, shall be with the contact representative; and

iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

3. Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with Such Permits

a. Scope. The recommendation of the Hearing Examiner to Ecology on a Shoreline Conditional Use or Shoreline Variance, or a final decision on a Shoreline Substantial Development processed in conjunction with a Shoreline Conditional Use or Shoreline Variance may be appealed to the City Council to be processed as a closed record public hearing in conformance with the provisions of 7.4.8.3(4)(b-d).

b. Time limit for Appealing. The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.

c. Form of Appeal. An appeal of the Hearing Examiner's decision on an SCUP, SV, or SSDP processed in conjunction with an SCUP or SV shall take the form of a written statement containing the following information:

i. The case number designated by the city and the name of the applicant;

ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal under this chapter. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline

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Administrator regarding the appeal, including notice, shall be with the contact representative; and

iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

7.4.8.3 Appeal Review Process

1. General. All complete appeals submitted shall be scheduled for review at a public hearing such that a final decision can be rendered within 60 calendar days for closed-record appeals, and within 90 calendar days for open-record appeals. Further extensions are permitted upon mutual agreement of the appellant, the applicant, and the Shoreline Administrator. If a final decision is not reached within this time, the Shoreline Administrator shall so notify the appellant and shall provide a reason for the delay and an estimated date of final decision issuance.

2. Statement of Exemption

   a. Venue. Appeals of the Shoreline Administrator's decision on a Statement of Exemption are conducted before the Hearing Examiner in an open record proceeding.

   b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to the appellant.

   c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record

   d. Further Local Review. The decision of the Hearing Examiner is final and may not be appealed.

3. Shoreline Substantial Development Permit

   a. Venue. Appeals of the Shoreline Administrator's decision on a Shoreline Substantial Development Permit are conducted before the Hearing Examiner in an open record proceeding.

   b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:

      i. The applicant and all owners of the site that is the subject of the application;

      ii. All parties of record;

      iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;

      iv. Any person who has submitted a written request to be notified; and

      v. The appellant and all parties to the appeal.

c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record

d. Further Local Review. No additional local review is provided. However, within 21 days of the issuance of the Hearing Examiner's decision, further appeal may be filed with Superior Court and/or the State Shorelines Hearings Board.

4. Shoreline Variances, Shoreline Conditional Use Permits, and Substantial Development Permits Processed in Conjunction with Such Permits

a. Venue. Appeals of the Hearing Examiner's decision on Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with such permits are conducted before the City Council in a closed record proceeding.

b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:

i. The applicant and/or appellant and all owners of the site that is the subject of the application;

ii. All parties of record;

iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;

iv. Any person who provided oral or written testimony entered into the record at the public hearing.

v. Anyone who requested in writing a notification of the decision on a particular matter; and

vi. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city that includes provision for such notice or which is otherwise entitled to such notice.

c. Decision Timeline. The City Council shall issue a decision within 14 calendar days of the close of the record.

d. Further Local Review. No additional local review is provided in the case of Shoreline Conditional Use Permits and Shoreline Variances. The city is making a recommendation to Ecology. Ecology's final decision may be appealed by filing an appeal with Superior Court and/or the State Shorelines Hearings Board.

The City Council decision on any Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance may be appealed separately to the State Shoreline Hearings Board.

7.4.8.4 State Shoreline Hearings Board

1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

2. Such appeals must be filed within twenty-one (21) days from the date the permit decision was filed.

3. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearing Examiner or City Council on appeal. These may include, but are not limited to, Shoreline Substantial Development Permits, Statements of Exemption, Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Revisions.

7.4.8.5 State Growth Management Hearings Board

1. Ecology's decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board (GMHB) in accordance with RCW 90.58.190.

7.4.9 Notification to Ecology and the Attorney General

2. The Shoreline Administrator shall notify Ecology and the Attorney General of any Statement of Exemption, Substantial Development, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:

    a. A copy of the complete application per WAC 173-27-180;

    b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

    c. The final decision or recommendation of the City;

    d. The permit data sheet per WAC 173-27-990;

    e. Affidavit of public notice; and

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f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).

4. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

5. Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is received.

7.4.10 Ecology Review

1. Ecology may petition for review of the City's decision on a Statement of Exemption or a Shoreline Substantial Development Permit. Such petition must be commenced within twenty one (21) days from the date the final decision was filed.

2. Ecology shall make a final decision approving, approving with conditions, or disapproving a Shoreline Conditional Use Permit or Shoreline Variance Permit and convey its decision to the City and the applicant within thirty (30) days of the date of filing by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.

3. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173 27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.

4. Appeals of Ecology decisions on Shoreline Conditional Use Permits and Shoreline Variance Permits shall be made to the Shorelines Hearing Board as specified in Section 7.4.8.4.

7.4.11 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.

2. Construction may be commenced no sooner than thirty (30) days after the date the appeal of the Shorelines Hearings Board's decision is filed if a permit is granted by the local government, and

a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;

b. The hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and

c. An appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW.

3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology

4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and WAC 173-27-090 the city may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

7.5 Enforcement

7.5.1 General Enforcement

1. It shall be unlawful to violate the provisions of this program.

2. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

3. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. 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 that accrue to the violator and the cost of obtaining compliance may also be considered.

4. Enforcement action by the City of Vancouver or Ecology may be taken whenever a person has violated any provision of the act or this program. The choice of

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enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

5. The Shoreline Administrator, and/or authorized representative, shall have the authority to enforce the shoreline regulations of the City of Vancouver.

6. The Shoreline Administrator or duly authorized representative of the Shoreline Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this Program.

7. No provision of, or term used in, this code is intended to impose upon the City of Vancouver, or any of its officers or employee, any duty which would subject them to damages in a civil action.

8. The City of Vancouver and/or Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of this program or chapter 90.58 RCW.

   a. Content of order. The order shall set forth and contain:

      i A description of the specific nature, extent, and time of violation and the damage or potential damage; and

      ii. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.

   b. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

   c. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

7.5.2 Requirement for Restoration Plan

1. In the event the City initiates enforcement action under this Program or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Program. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Chapter 5A, VMC 20.740.090(C). The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

2. Minimum Performance Standards for Restoration

   a. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

      i) The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;

      ii) The soil types and configuration prior to violation shall be replicated;

      iii) The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Shoreline Administrator). If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator; and

      iv) Information demonstrating compliance with the requirements in Chapter 5A, VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator.

   b. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

      i) The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;

      ii) The risk of personal injury resulting from the alteration shall be eliminated or minimized;

      iii) Drainage patterns shall be restored to those existing before the alteration; and

      iv) The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator.

3. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

7.5.3 Investigation and Notice of Violation

1. An investigation shall be made of any structure or use which the City reasonably believes does not comply with the standards and requirements of this Program.

2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.

3. The compliance period shall not be less than two weeks, except where substantial life safety issues exist.

7.5.4 Penalties

1 Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of this Program or who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by the City of Vancouver. Ecology may impose a penalty jointly with the City, or alone only upon an additional finding that a person:

a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or

b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or

c. The violation has a probability of placing a person in danger of death or bodily harm; or

d. Has a probability of causing more than minor environmental harm; or

e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

2 In the alternative, a penalty may be issued to a person by the City alone, or jointly with Ecology for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

b. A statement of what is required to achieve compliance;

c. The date by which the City requires compliance to be achieved;

d. Notice of the means to contact any technical assistance services provided by the City or other agencies; and

e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the City of Vancouver.

3. Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

4. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

5. Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the City of Vancouver or Ecology, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

6. Right of appeal. Persons incurring a penalty imposed by Ecology or imposed jointly by the City of Vancouver and Ecology may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons incurring a penalty imposed by local government may appeal the same to the local government legislative authority.

7. Timing of appeal. Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

8. Penalties due.

   a. Penalties imposed shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the City of Vancouver’s and/or Ecology’s decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

   b. If the amount of a penalty owed the City of Vancouver is not paid within thirty days after it becomes due and payable, the City will take actions necessary to recover such penalty, including any applicable actions listed in VMC Title 22. If the amount of a penalty owed Ecology is not paid within thirty days after it

becomes due and payable, the attorney general, upon request of Ecology, shall bring an action in the name of the state of Washington to recover such penalty.

9. Penalty recovered. Penalties recovered by the City of Vancouver shall be paid to the City Critical Areas Restoration Fund and shall be used to protect and restore critical areas within the City of Vancouver. Penalties recovered by Ecology shall be paid to the state treasurer Penalties recovered jointly by the City and Ecology shall be divided equally between the City and Ecology unless otherwise stipulated in the order.

7.5.5 Violations – Subsequent Development and Building Permits

No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this Program. All purchasers or transferees of property shall comply with provisions of the Act and this Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

7.6 Public and Private Redress

1. Any person subject to the regulatory program of this Program who violates any provision of this Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

2. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

7.7 Fees for Permits Obtained after Development

1. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this Program.

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2. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

7.8 Rescission of Permits

1. This section applies to requests or decisions to rescind Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances.

2. The Hearing Examiner shall have the power to rescind or modify approved Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances in accordance with the Type III procedures of VMC 20.210.060 and VMC 20.210.120.

3. City staff or any other persons who are aggrieved by activities undertaken under a shoreline permit may request in writing that the Hearing Examiner rescind or modify the permit.

4. Upon receipt of a request for rescission, the Shoreline Administrator shall schedule a public hearing for the next Hearing Examiner meeting where the review can be accommodated and the required notice given.

5. Notice of Public Hearing.

    a. The Shoreline Administrator shall publish a notice of the rescission hearing at least fourteen days before the hearing date.

    b. The Shoreline Administrator shall mail notice of the hearing to the party to which the permit was issued, the owner of the property for which the permit was issued, the person or persons who requested the Hearing Examiner rescind the permit and any persons who requested notice of the hearing in writing at least ten days before the hearing date.

    c. The notice shall include the following information:

        i. The name of the permit holder and, if applicable, the project name.

        ii. The street address of the subject property and a description of the property in non-legal terms sufficient to identify the location.

        iii. A brief description of the issues.

        iv. The date, time and place of the public hearing.

        v. A statement of the right of any person to participate in the public hearing by providing written statements before or at the hearing and orally at the hearing.

6. The Hearing Examiner shall hold a public hearing before deciding whether to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, the Hearing Examiner may request such additional information as is reasonably necessary to evaluate whether the permit or variance should be rescinded.

7. After the public hearing has concluded, the Hearing Examiner shall decide whether to rescind, modify, or add conditions to the permit.

    a. The decision may be made at the same public meeting as the public hearing or at another public meeting. The Hearing Examiner shall issue a decision within fourteen days of closure of the public record.

    b. The decision shall be based on the decision criteria in Section 7.8(13).

    c. If the Hearing Examiner decides to rescind the permit, the Hearing Examiner may require restoration or reclamation of the property and may set time limits for the completion of these activities.

    d. The Hearing Examiner shall adopt findings of fact and conclusions which support the decision and any required conditions.

8. Unless appealed to City Council, the decision of the Hearing Examiner and the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within fourteen days of the date of the decision.

9. Effect of Decision.

    a. Unless appealed to the City Council, the decision of the Hearing Examiner is the final decision of the City.

    b. If the Hearing Examiner rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit shall immediately cease, unless the decision maker grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.

10. Appeal of decision to City Council. The City Council shall hold a public hearing before deciding whether to uphold or overturn a Hearing Examiner's decision to rescind or add conditions to the permit. Any person can submit written statements or speak. At the hearing, members of the City Council may request such additional information as is reasonably necessary to evaluate whether the permit should be rescinded.

    a. After the public hearing has concluded, the City Council shall decide whether to uphold or overturn the Hearings Examiner's decision to rescind, modify, or add

conditions to the permit. The City Council shall also have the authority to modify the decision of Hearings Examiner.

b. The decision may be made at the same public meeting as the public hearing or at another public meeting. The City Council shall issue its decision within 90 days of the filing of an appeal of a rescission,

c. The decision shall be based on the decision criteria in Section 7.8(13).

d. If the City Council upholds or modifies the Hearing Examiner decision to rescind the permit, the City Council may require restoration or reclamation of the property and may set time limits for the completion of these activities.

e. In its decision on the appeal of the Hearing Examiner decision, the City Council shall adopt findings of fact and conclusions which support the decision and any required conditions.

11. The decision of the City Council on the appeal of the Hearing Examiner decision shall include the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within twelve days of the date of the decision.

12. Effects of Decision.

a. The decision of the City Council on the appeal of a Hearing Examiner decision on the rescission may be appealed to the Washington State Shorelines Hearings Board as provided in RCW 90.58.180 and Chapter 461-08 WAC.

b. If, on appeal, the City Council rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Or Shoreline Variance Permit shall immediately cease, unless the City Council grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.

13. Criteria for Recission.

a. The Hearing Examiner or City Council, on appeal, may rescind or modify a permit upon finding that one or more of the following criteria are met.

i. The permit approval was obtained by fraud or through the provision of misleading application material.

ii. The permit is being exercised contrary to the terms or conditions of approval or in violation of law.

iii. The use or activity for which approval was granted is being exercised so as to be detrimental to the public health, safety, or welfare.

14. Ecology may initiate permit rescission. Under the provisions of RCW 90.58.140(8), if Ecology is of the opinion that noncompliance exists, Ecology shall provide written notice to the City and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the City has taken no action to rescind the permit, Ecology may petition the Shoreline Hearings Board for a rescission of the permit upon written notice of the petition to the City and the permittee if the request by Ecology is made to the Hearings Board within fifteen days of the termination of the thirty-day notice to the City.

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CHAPTER 8 DEFINITIONS

A

1. **Accessory Structure** – a subordinate building or use incidental to the use of the main building or use.
2. **Accessory Use** – any use or activity incidental and subordinate to a primary use or development.
3. **Accretion** – the growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks, and tombolos.
4. **Act** - Washington State Shoreline Management Act of 1971, as amended, RCW 90.58.
5. **Adjacent -** having a common end point or border.
6. **Adjacent Lands** – lands adjacent to the shorelines of the state (outside of shoreline jurisdiction) *(RCW 90.58.340)*.
7. **Agricultural Activities -** agricultural uses and practices including, but not limited to: producing, breeding or increasing agricultural products; rotating and changing agricultural crops; agricultural crops; allowing land used for agricultural activities to lie fallow in that it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation *(WAC 173-26-020(3)(a))*.
8. **Agricultural Equipment and Agricultural Facilities** – includes, but is not limited to:
   a. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains:
   b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands
   c. Farm residences and associated equipment, lands, and facilities; and
   d. Roadside stands and on-farm markets for marketing fruit or vegetables.
9. **Agricultural Land** – those specific land areas on which agricultural activities are conducted as of the date of adoption of this Program, as evidenced by aerial

photography or other documentation. After the effective date of this Program, land converted to agricultural use shall comply with the requirements of this Program.

10. **Agricultural Products –** includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

11. **Aggrieved Person** – a person who is suffering from an infringement or denial of legal rights or claims.

12. **Amendment -** means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

13. **Anadromous fish** -Fish that migrate downstream in their juvenile lifestages; live their adult lives in the ocean; then migrate upstream from the ocean to breed in fresh water.

14. **Appurtenance -** A structure or development necessarily connected to a single-family residence. Normal appurtenances include a garage, a shop, a deck, a pool, a driveway, utilities, fences, grading which does not exceed 250 cubic yards and does not involve placement of fill in any wetland or waterward of the OHWM, and when allowed, installation of a septic tank and drainfield.

15. **Aquaculture -** The culture or farming of food fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. *(WAC 173-26-241(3)(b))*.

16. **Area of Special Flood Hazard -** Land in the flood plain subject to a 1% or greater chance of flooding in any given year. Designations on Flood Insurance Rate Maps always include the letter A. Also referred to as "Frequently Flooded Areas."

17. **Associated Wetlands -** Those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake, river or stream subject to the Shoreline Management Act.

18. **Average Grade Level -** the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure *(WAC 173-27-030(3))*.

B

19. **Beach Enhancement/Restoration** – process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation drift sills, and other non-intrusive means as applicable.

20. **Bedlands** – means those submerged lands, including tidelands where appropriate, underlying navigable waters.

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

22. **Best Available Science** – use of the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.900) for developing policies and development regulations regarding critical areas (WAC 365-195).

23. **Best Available Technology (BAT)** – the most effective method, technique, or product available that is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably low maintenance.

24. **Best Management Practices (BMP)** - For the purposes of this Program, BMP means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology and/or the City of Vancouver that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

25. **Bioengineering -** means project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation *(WAC 220-110-020(12))*.

26. **Boat** - means any floating vessel or watercraft, including ships and barges, which is designed and used for navigation and which does not interfere with the normal public use of the water *(WAC 173-27-030(18))*.

27. **Boating Facility** – means any structure or group of structures including but not limited to ramps, marinas, docks, piers, floats, or mooring buoys providing access to or service for boats. Boating facilities may serve hotels, motels, multi-family residences, individual lots or subdivisions, or public recreation uses.

28. **Boathouse** – An over-water structure designed for storage of boats.

29. **Boat Launch Facility** - a facility or structure providing access in and out of the water for boats, such as ramps, rails, or lift stations.

30. **Bog** – A type of wetland where (1) organic (peat or muck) soil layers comprise at least 16 of the first 32 inches of the soil profile; or (2) there is more than 70% cover of mosses at ground level and more than 30% of the total shrub and herbaceous cover consists of species listed in Table 3 – Characteristic Bog Species in Washington State found in Hruby, 2004, Washington State Wetlands Rating System for Western Washington, Ecology publication #04-06-025, or as revised by

Ecology. Many bogs have soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater.

31. **Breakwater -** a structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.

32. **Buffer Area –** An area that is contiguous to and protects a critical area and which is required for the continued maintenance, functioning, and/or structural stability of a critical area.

33. **Bulkhead -** a solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.

C

34. **Channel –** an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels *(WAC 173-27-030(8b))*.

35. **Channel Migration Zone (CMZ) -** the area along a river within that the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

36. **City -** means the City of Vancouver.

37. **Clean Water Act –** the primary federal law providing water pollution prevention and control, previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

38. **Clearing -** the destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, which does not impair the health or survival of the trees or native vegetation.

39. **Commercial -** a business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.

40. **Commercial Fishing -** is the activity of capturing fish and other seafood under a commercial license.

41. **Conditional Use –** a use, development, or substantial development that is classified as a conditional use, or is not classified within the Master Program, and requires a conditional use permit *(WAC 173-27-030(4))*.

42. **Covered Moorage –** Boat moorage, with or without walls, that has a roof to protect a boat.

43. **Critical Aquifer Recharge Area -** Areas with a critical recharging effect on aquifers used for potable water as designated at VMC 14.26.

44. Critical Areas - include fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands as designated in Chapter 5A, and critical aquifer recharge areas as designated at VMC 14.26.

45. Critical Habitat- Specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.

D

46. Date of Filing – means the date of actual receipt by Ecology of the City's decision. For a variance or conditional use permit, the date of filing is the date Ecology's decision is transmitted to the City. For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology's decision is transmitted to the City.

47. 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 which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level.

48. Development Regulations - the controls placed on development or land uses, 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 RCW 90.58, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto *(WAC 173-26-020(8))*.

49. Dike - is an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

50. Dock - a landing or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.

51. Dock, Community – a dock serving a subdivision, hotel, motel, or multi-family residential development.

52. Dock, Joint-Use – a dock serving two or more lots each of which has water frontage.

53. Dolphin – A cluster of piles bound together**.**

54. Dredge Material – the material removed by dredging.

55. Dredging - is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM of any stream, river, lake, water body, or wetland.

56. Dredging, Maintenance - dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging

that maintains the previously authorized width of a channel, boat basin or berthing area.

57. Drift Sector - the extent of the littoral drift area downstream from and caused by a breakwater, jetty, rock weir or groin.

E

58. Ecology – the Washington State Department of Ecology.

59. Ecosystem-wide 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 *(WAC 173-26-020(14))*.

60. Effective Date of Permit – For Shoreline Substantial Development, Conditional Use and Variance Permits, the date of filing as provided in RCW 90.58.140(6). including completion of all appeals or legal actions.

61. Emergency- is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this Program.

62. Emergency Construction - Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur, but are not imminent, are not an emergency *(RCW 90.58.030(3)(e)(iii) and WAC 173-14-040(1)(d), (2), and (3))*.

63. Enhancement - Alterations performed to improve the condition of an existing degraded area so that the functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.

64. Erosion – The general process or the group of processes whereby the material of the earth's crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces, that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting (American Geological Institute, 1998).

65. Exempt/Exemption - developments that are set forth in Section 2.3 (Exemptions from Substantial Development Permit) of this Program that are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the act and this Program *(WAC 173-27-040; RCW 90.58.030(3)(e), 90,58.147, 90.58.355, and 90.58.515)*.

F

66. 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 *(WAC 173-27-030(8))*.

67. Feasible - an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

e. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

f. The action provides a reasonable likelihood of achieving its intended purpose; and

g. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the city may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. *(WAC 17l3-26-020(15))*

68. Feeder Bluff - any bluff (or cliff) experiencing periodic erosion from waves, sliding, slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.

69. Fill - means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land *(WAC 173-26-020(16))*.

70. Fill, Speculative - The placement of fill material not associated with an approved project.

71. Fish and Wildlife Habitat Conservation Areas - Fish and Wildlife Habitat Conservation Areas as designated at VMC 20.740.110.

72. Float - a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft.

73. Floating Home – a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.

74. Flood Hazard Reduction - measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and

of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

75. Floodplain - synonymous with the one hundred-year floodplain and area of special flood hazard (frequently flooded areas) and refers to the land subject to a 1% or greater chance of flooding in any given year.

76. Floodway - means the area, as identified in this Program, that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state (RCW 90.58.030(2)(b)).

77. Forb - an herbaceous, non-woody plant other than grass.

78. Forest Practices – any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control *(WAC 222-16-010(21)).*

79. Frequently Flooded Areas - the areas of special flood hazard as designated at VMC 20.740.120.

80. Frontage or Water Frontage – the portion of a parcel adjacent to the OHWM between property lines.

G

81. Gabions – structures composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls.

82. Geologic Hazard Areas - include areas of landslide, liquefaction and dynamic settlement, ground shaking amplification, fault rupture, soil erosion, and bank erosion hazard areas as designated at VMC 20.740.130.

83. Grading - means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land *(WAC 173-26-020(20))*.

84. Grassy Swale – a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

85. Groin - a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.

86. Groundwater - means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

H

87. Harbor Area - the area of navigable waters between the inner and outer harbor lines identified by the Board of Natural Resources acting as the State Harbor Lines Commission and as established by Section 1 of Article XV of the Washington State Constitution.

88. Harbor Line, Inner - the line established by the State of Washington in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area. This line determines the seaward extent of private ownership in tidal or shoreland areas (often corresponds to the "bulkhead line").

89. Harbor Line, Outer - the line located and established by the Washington State Department of Natural Resources in navigable waters that delineates the extent of water area that may be leased to private interests.

90. Hazard Tree - any tree with a combination of structural defect and/or disease and a proximity to persons or property which makes it subject to a high probability of failure, as recommended by a qualified arborist.

91. Height - the distance measured from the average grade level to the highest point of a structure: Provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the master program provides otherwise): Provided further that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).

92. Hook – a spit or narrow cape of sand or gravel that turns landward at its outer end.

I

93. Institutional Use – A use and related structure(s) for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, museums, community centers, and the relevant essential public facilities identified in WAC 365-196-550

94. In-stream Structure - a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose. Outfalls are not in-stream structures.

95. Interested Party – means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030 *(WAC 173-27-030(12)).*

96. Invasive – means a nonnative plant or animal species that:

a. causes or may cause significant displacement in range, a reduction in abundance of native species;
b. Threatens or may threaten natural resources or their use in the state;

c. Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or
d. Threatens or harms human health (RCW 77.08.010(28)).

J

97. Jetty- a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.

L

98. Lakes – all the surface water areas of the state, including reservoirs; except: (a) Lakes less than twenty acres in size; (b) Streams or rivers (as described in WAC 173-18-030); and (c) Shorelines of statewide significance *(WAC 173-20-030(1)).*

99. Lakes of Statewide Significance - those lakes, whether natural, artificial or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high-water mark *(WAC 173-20-030(2)).*

100. Large Woody Debris - Shrubs, trees, or their branches that have fallen and are on the ground or in, across, or dangling above streams, rivers, lakes, or ponds.

101. Levee – a large dike or embankment, often having an access road along the top, that is designed as part of a system to project land from floods.

102. Limited Utility Extension – the extension of a utility service that is categorically exempt under RCW 43.21C for natural gas, electricity, telephone, water or sewer to service an existing use and will not extend more than twenty-five hundred (2500) linear feet within the shorelines of the state.

103. Littoral – The area of the shore from the OHWM waterward to a depth of two meters below ordinary low water or to the maximum extent of non-persistent emergent plants.

104. Littoral Drift –The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.

105. Live-aboard– a boat principally used as an over-water residence. Principal use as an over-water residence means that it is occupied in a single location for a period exceeding two months in any one calendar year. Live-aboards are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion and steering equipment to operate as a boat.

106. Local Government – any county, incorporated city, or town that contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

107. Log Booming – includes the placement or removal of logs and log bundles into and from the water, and the assembly and disassembly of rafts for waterborne transportation.

M

108. Marina - a water-dependent commercial use that consists of a system of piers, buoys, or floats which provides moorage for at least ten (10) boats. For the purposes of this Program, large community moorage facilities, yacht club facilities, and camp or resort moorage areas are also considered marinas. Boat launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

"Foreshore marinas" are marinas located waterward of the ordinary high water mark.

"Backshore marinas" are marinas located landward of the ordinary high water mark. There are two common types of backshore marinas: (1) a wet-moorage marina that is dredged out of the land artificially creating a basin; and (2) a dry-moorage marina that has upland storage with a hoist, marine travel lift, or ramp for water access.

109. Marine Railway – a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

110. Marine Travel Lift – a mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

111. May - means the action is acceptable, provided it conforms to the provisions of this Program.

112. Merchantable Trees - live trees, 6 inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions are submitted and accepted by the local jurisdiction indicating non-marketability. "Merchantable trees" shall not include trees smaller than 4 inches DBH.

113. Mining - the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses *(WAC 173-26-241)*.

114. Mitigation – to avoid, then minimize and compensate for unavoidable adverse impacts to shoreline ecological functions and processes.

115. Mitigation, Compensatory – an action to reduce the severity of effects from an action that may cause potential impacts to functions and values of critical areas and their buffers.

116. Mixed-use Project - developments that include a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.

117. Moorage - a pier, dock, buoy or float, either fixed or floating, to which boats may be secured.

118. Moorage Facility, Community - a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision,

hotel, motel, or multi-family residential development within shoreline jurisdiction; or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. A community moorage facility is a marina (Definition #106) if:

a. it provides commercial goods or services;

b. it is of a large scale (more than ten slips);

c. moorage is proposed to be leased to upland property owners; or

d. the proposal includes a boat launching facility other than a ramp.

119. Moorage Facility, Joint Use - a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents on adjacent or neighboring lots each with water frontage. A joint-use moorage facility is a marina (Definition #106) if:

a. it provides commercial goods or services;

b. it is of a large scale (more than ten slips);

c. moorage is proposed to be leased to upland property owners; or

d. the proposal includes a boat launching facility other than a ramp.

120. Mooring Buoy - a floating object anchored to the bottom of a water body that provides tie-up capabilities for boats or watercraft.

121. Multi-Family Residence - a building containing two or more dwelling units including but not limited to duplexes, apartments, and condominiums.

122. Must - means a mandate; the action is required.

N

123. Natural/Existing Topography – the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading including excavation and filling.

124. Navigational Channels - are those routes on the waters of state beyond the outer harbor line, commonly used by ships for useful commerce.

125. Navigable Waters - a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court *(WAC 332-30-106)*.

126. Non-conforming Structure – a structure that was lawfully constructed or established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions *(WAC 173-27-080(1))*.

127. Non-conforming Use - use or activity that was lawfully established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions. *(WAC 173-27-080(1))*

128. **Non-Water-Oriented Use or Activity -** a use or activity that is not water-dependent, water-related, or water-enjoyment.

129. **Normal Maintenance -** includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition *(WAC 173-27-040(2)(b))*. See also "normal repair".

130. **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. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment *(WAC 173-27-040(2)(b))*. See also "normal maintenance".

131. **Noxious Weeds -** Non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

O

132. **Ordinary High Water Mark** (OHWM) - that mark found by examining the bed and banks of a body of water 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 Ecology: Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water *(RCW 90.58.030(2)(b) and WAC 173-22-030(6))*.

133. **Over-water Structure** - a structure or other construction located waterward of the Ordinary High Water Mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

P

134. **Parking** - the temporary storage of automobiles or other motorized vehicles. Temporary storage of vehicles for import or export in port areas shall not be considered parking.

135. **Parking, Accessory** - is that which directly serves an approved shoreline use.

136. **Parking, Primary** - parking that is the principal use on the property, not accessory to another use.

137. **Party of Record -** includes all persons, agencies or organizations who have submitted written comments in response to a public notice; presented testimony in a

formal public hearing; or notified the city of their desire to receive a copy of the final decision; and who have provided a complete, accurate, and current address for delivery of such decision by mail.

138. Permitted Use – a use that is allowed under the rules and regulations of this Program.

139. Permit - any substantial development, variance, conditional use permit, or revision authorized under this Program *(WAC 173-27-030(13))*.

140. Pier - a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for boats or watercraft or to provide access to a floating dock.

141. Pierhead Line - the waterward limit to which open pile work may be constructed as designated by the Federal government.

142. Point – a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wavecut shelf remnant of a headland bluff or a purely accretional deposit that began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging berms that normally enclose a lagoon, marsh, or meadow, depending on the point's stage of development.

143. Port – a municipal corporation that is a special purpose district of local government authorized by the Washington State Constitution and regulated by RCW Chapter 53.

144. Potentially Harmful Materials - means hazardous materials as defined at VMC Section 14.26.110 as well as other materials including, but not limited to, the following which, if discharged or improperly disposed, may present a risk to water resources:

Petroleum products including but not limited to petroleum fuel and petroleum-based coating and preserving materials; oils containing PCBs; antifreeze and other liquid automotive products; metals, either in particulate or dissolved form, in concentrations above established regulatory standards; flammable or explosive materials; radioactive material; used batteries; corrosives, acids, alkalis or bases; paints, stains, resins, lacquers or varnishes; degreasers; solvents; construction materials; drain cleaners and other toxic liquid household products; pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; steam cleaning and carpet cleaning wastes; pressure cleaning wastes; car wash water; laundry wastewater; soaps, detergents, ammonia; swimming pool backwash; chlorine, bromine, and other disinfectants; heated water; domestic animal wastes; sewage; recreational vehicle waste; animal carcasses, excluding salmonids; food wastes; pharmaceuticals and personal care products; collected lawn clippings, leaves or branches; trash or debris; silt, sediment or gravel; dyes; and untreated or unapproved wastewater from industrial processes.

145. Program - the Shoreline Master Program developed pursuant to the Shoreline Management Act (RCW 90.58), adopted by the city and approved by Ecology.

146. Project Area – the area which will be directly physically affected by a proposed development.

147. Provisions - policies, regulations, standards, guideline criteria or environment designations.

148. Public Access - is the physical ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations *(WAC 173-26-221)*.

149. 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 including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development *(WAC 173-27-030(14))*.

Q

150. Qualified Professional - a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4).

R

151. Recreational Use – a use and related structures for the provision of recreational activities, as follows:

a. Active recreational uses/facilities or uses – involve indoor or outdoor activities with a large number of participants or viewers; require a moderate to high level of infrastructure and maintenance; generate high noise levels. Sports fields, golf courses, skate parks, and motorized boating are examples of active recreational uses or facilities.

b. Passive recreational uses/facilities - involve a small number of participants or viewers; require a low to moderate level of infrastructure development and maintenance; generate little noise; and are compatible with open space and natural resource protection. Wildlife viewing, non-vehicular trails, fishing, canoeing and picnicking are examples of passive recreational uses and facilities.

152. Recreational Vehicle – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

153. Residential Development - is the development on shorelands of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division.

154. Restoration– means to reestablish or upgrade impaired ecological processes or functions. This may be accomplished through measures including, but not limited

to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions *(WAC 173-26-020(31))*.

155. **Revetment -** a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead that is a vertical structure.

156. **Right-of-Way (ROW) -** The property held by the city or other governmental jurisdiction for existing and/or future public access including land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term right-of-way for land division purposes shall mean that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

157. **Rip-Rap -** is a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.

158. **Rock Weir –** See "Groin."

S

159. **Setback –**the distance an activity, building, or structure must be located from the Ordinary High Water Mark.

160. **Shall -** a mandate; the action must be done.

161. **Shorelands** - those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways (minimum extent) or to the outer extent of the floodplain (maximum extent); and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58. (See Section 2.1.)

162. **Shoreline Administrator** - is the city's Planning Official or his/her designee responsible for administering this Program.

163. **Shoreline Designations -** the categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

164. **Shoreline Ecological 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 which constitute the shoreline's natural ecosystem *(WAC 173-26-200 (2)(c))*.

165. Shoreline Jurisdiction - all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

166. Shoreline Master Program or **Program -** means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. See Section 1.8 for complete details.

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

168. Shoreline Restoration Project – a project designed to restore impaired ecological function of a shoreline.

169. Shoreline Stabilization – includes actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and non-structural methods. Structural measures include but are not limited to bulkheads, revetments, and riprap. Non-structural measures include building setbacks, relocation of structures, and bioengineered methods that use vegetation or wood.

170. Shoreline Substantial Development Permit - is the permit required by this Program for uses which meet the definition of substantial developments.

171. Shorelines - means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

172. Shorelines Hearing Board (SHB) – a quasi-judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of a substantial development permits, conditional uses, variance or, enforcement penalties.

173. Shorelines of Statewide Significance –a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies and regulations apply, and described below:

a. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the ordinary high water mark;

b. Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and

c. Their associated shorelands.

174. **Shorelines of the State –** are the total of all "shorelines" and "shorelines of statewide significance" within the state.

175. **Should -** the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and WAC 173-26, against taking the action.

176. **Sign -** A sign is any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information to attract the attention of the public for any reason. Informational signs are non-commercial and intended to communicate safety, directional, navigation, educational, or interpretive information.

177. **Significant Vegetation Removal –** the removal or alteration of trees, shrubs, and /or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, where it does not affect ecological functions does not constitute significant vegetation removal *(WAC 173-26-020(33))*.

178. **Single-Family Residence -** a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

179. **Solid Waste Facility -** refers to any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.

180. **Stormwater -** runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

181. **Stream -** Water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or WAC 222-16-031. Streams also include natural watercourses modified by humans. Streams do not include drainage ditches which are not modifications of natural watercourses.

182. **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 *(WAC 173-27-030(15))*.

183. **Subdivision** – the division or re-division of land, including short subdivision, for the purpose of sale, lease, or conveyance.

184. **Substantial Development -** "Substantial development" shall mean any development of that the total cost or fair market value exceeds five thousand seven hundred and eighteen dollars ($5,718), or as adjusted by the State Office of Financial Management, or any development that materially interferes with the

normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e).

185. **Substantially Degrade** - to cause significant ecological impact *(WAC 173-26-020(35))*.

186. **Surface Water** - water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

T

187. **Terrestrial** – of or relating to land as distinct from air and water.

188. **Transfer Facility** – See "Solid Waste Facility."

189. **Transmit -** to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination *(WAC 173-27-030(16))*.

190. **Transportation Facility -** a road, railway, bridge and related structures such as culverts, fills, embankments, causeways, and the relevant essential public facilities identified in WAC 365-196-550 for the purpose of moving people or freight using motorized or non-motorized means of transport.

U

191. **Upland** – generally described as the dry land area above and landward of the OHWM.

192. **Utilities -** services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like, including the relevant essential public facilities identified in WAC 365-196-550.

193. **Utilities, Accessory -** are on-site utility features serving a primary use, such as a water, sewer, or gas line to a residence, and shall be considered a part of the primary use.

V

194. **Variance -** is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline. See RCW 90.58.160. *(WAC 173-27-030(17))*.

195. **Vegetation Conservation -** includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species *(WAC 173-26-221)*.

196. **Vessel -** See "Boat."

197. View Corridor - portion of a viewshed, often between structures or along thoroughfares. View corridors may or may not be specifically identified and reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context that fosters appreciation of its aesthetic value.

W

198. Water-dependent Use or Activity - a use or a portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.

199. Water-enjoyment Use or Activity - 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 that 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.

200. Water-oriented Use or Activity - a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

201. Water Quality - the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, chemical, aesthetic, recreation-related, and biological characteristics.

202. Water Quantity - For the purposes of this program, refers only to development and uses affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this Program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020(42)).

203. Water-related Use or Activity – a use or portion of use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

a. of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

b. the use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers make its services less expensive and/or more convenient.

204. Water Resources – Means surface water, stormwater, and groundwater.

205. Watershed Restoration Plan - a plan, developed or sponsored by WDFW, Ecology, DNR, the Washington Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, a special purpose agency such as the Lower Columbia Fish Recovery Board, or a conservation district that provides a general program and implementation measures

or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

206. Watershed Restoration Project - a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of a the plan and consists of one or more of the following activities (RCW 89.08.460):

a. A project that involves less than ten miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

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

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

207. Weir - a structure in a stream or river for measuring or regulating stream flow.

208. Wetlands - areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and which 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 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. Wetlands are designated at VMC 20.740.140.

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APPENDIX A

CITY OF VANCOUVER
UNOFFICIAL SHORELINE MAPS

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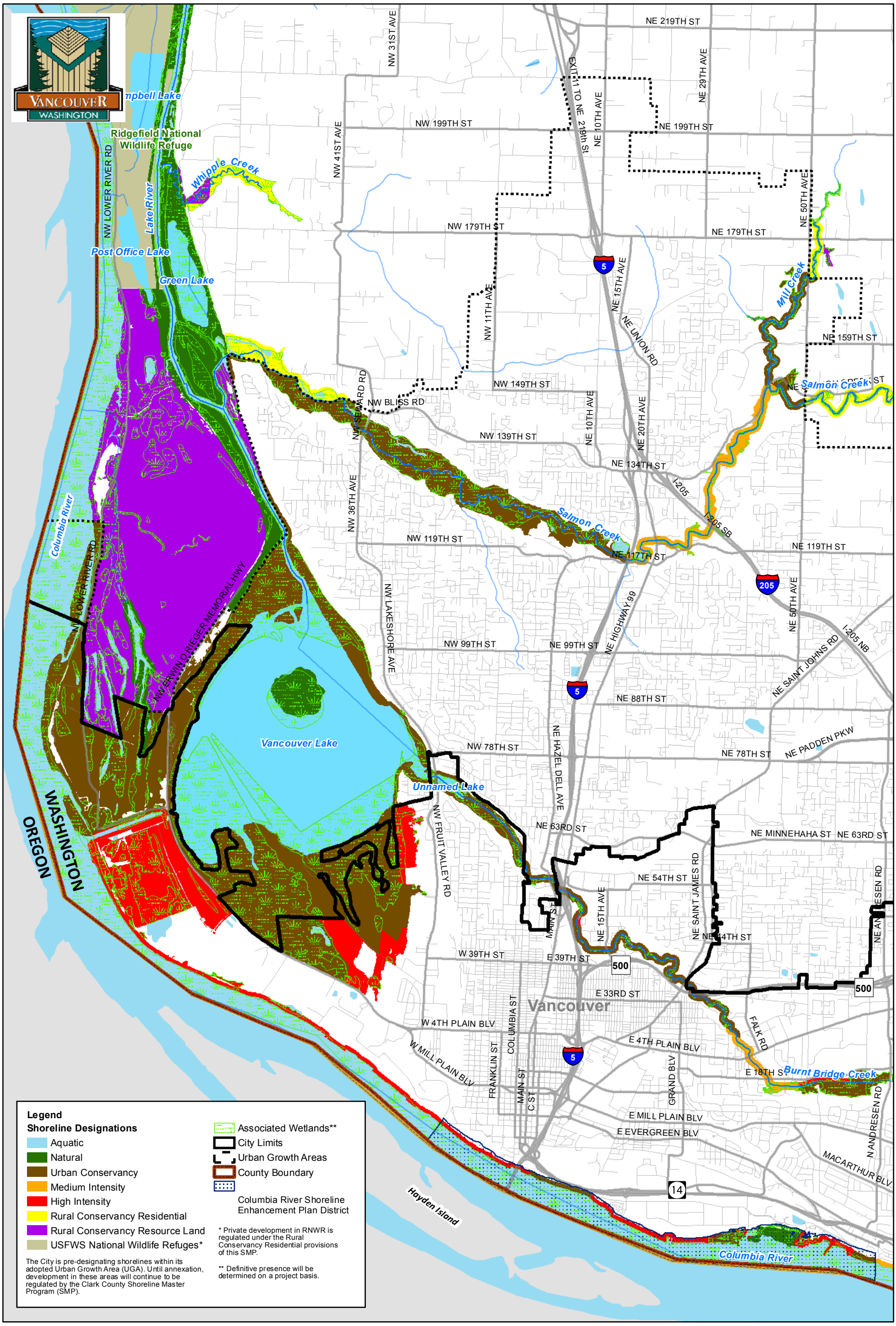

ESA Adolfson

SMA Grant Agreement No. G1000058

Coordinate System: State Plane NAD1983 (ft) Washington South FIPS 4602

NOTE: Map data shown here are the property of the sources listed below. Inaccuracies may exist, and ESA Adolfson implies no warranties or guarantees regarding any aspect of data depiction.

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Unofficial Shoreline Designation Map (West)
City of Vancouver, Washington

Data Sources: Clark County, 2009, 2011; DNR, 2007

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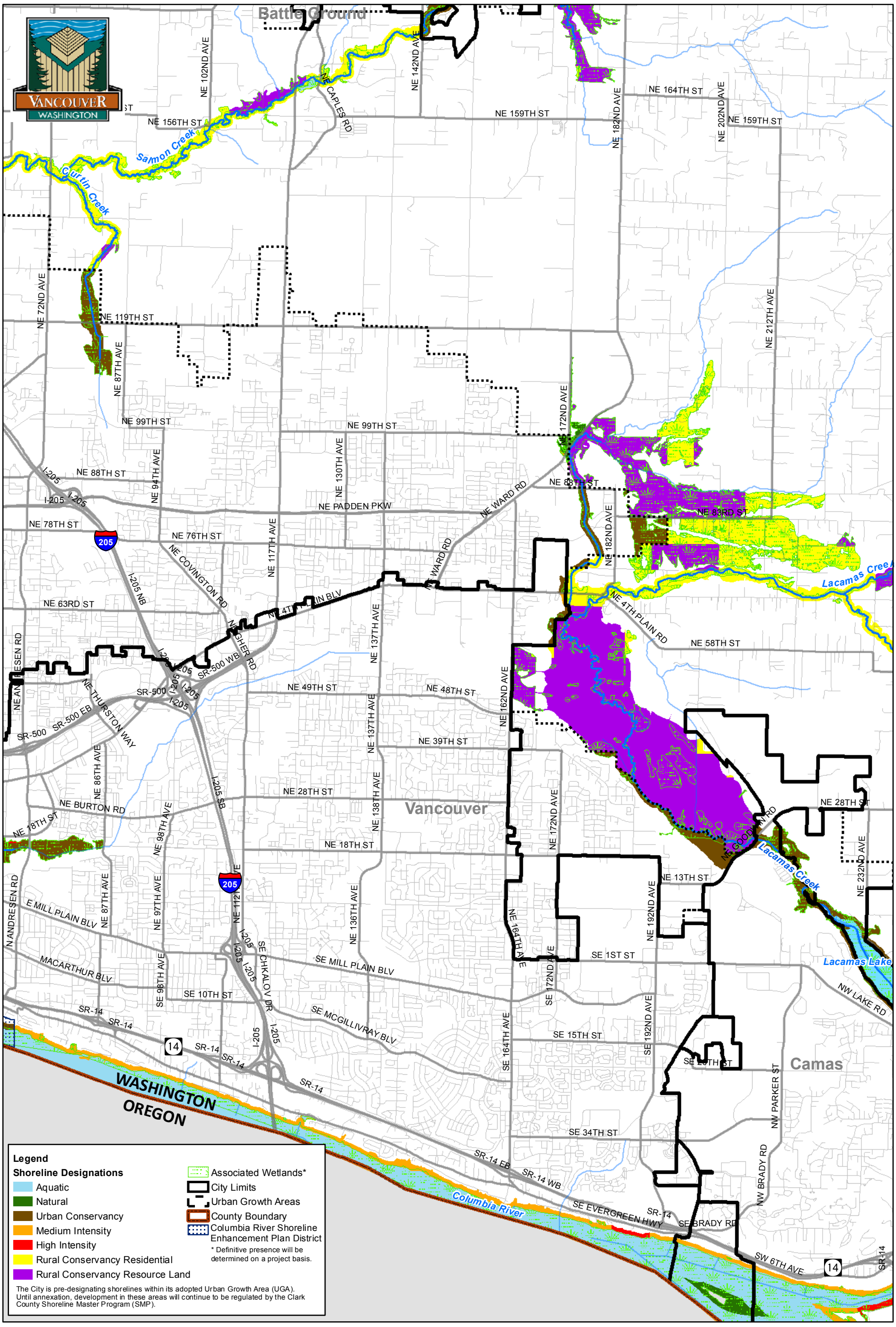

Legend

Shoreline Designations

- Aquatic
- Natural
- Urban Conservancy
- Medium Intensity
- High Intensity
- Rural Conservancy Residential
- Rural Conservancy Resource Land

- Associated Wetlands*
- City Limits
- Urban Growth Areas
- County Boundary
- Columbia River Shoreline Enhancement Plan District

* Definitive presence will be determined on a project basis.

The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Clark County Shoreline Master Program (SMP).

ESA Adolfson

Data Sources: Clark County, 2009, 2011; DNR, 2007

SMA Grant Agreement No. G1000058

Coordinate System: State Plane NAD1983 (ft) Washington South FIPS 4602

NOTE: Map data shown here are the property of the sources listed below. Inaccuracies may exist, and ESA Adolfson implies no warranties or guarantees regarding any aspect of data depiction.

N

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Miles

Unofficial Shoreline Designation Map (East)

City of Vancouver, Washington

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