CITY OF ARLINGTON

Shoreline Master Program

SEPTEMBER 2010

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THE WATERSHED COMPANY

September 2011

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CITY OF ARLINGTON
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CITY OF ARLINGTON

SHORELINE MASTER PROGRAM

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EXECUTIVE SUMMARY

Washington's Shoreline Management Act (SMA) was passed by the legislature in 1971 and affirmed by voters in 1972. All local jurisdictions with shorelines subject to regulation under the SMA are required to update their shoreline master programs (SMPs) in order to comply with the current SMP Guidelines. SMPs are comprehensive shoreline plans, mutually adopted by local governments and the Washington State Department of Ecology (Ecology), that regulate shoreline use and development in areas subject to regulation under the SMA. Under these Guidelines, local governments must base SMP provisions on an analysis of the most relevant and accurate scientific and technical information. This includes meeting the mandate of "no net loss" of shoreline ecological functions, as well as providing mechanisms for restoration of impaired shoreline functions.

The original SMP for the City of Arlington (City) was approved in 1974 and has not had a major update in over 10 years. This SMP represents an update to the City's existing SMP. Much has changed along the City's shorelines since the existing SMP was adopted. In addition, knowledge of best practices in the fields of development, conservation, and watershed restoration have evolved significantly. When approved by Ecology, the goals and policies included in this document will also become part of Arlington's Comprehensive Plan.

This SMP includes five shoreline categories or "environment designations":

- Historic Shoreline Business District (generally the area between the Centennial Trail and Hwy 530)
- Urban Conservancy – Open Space (more heavily used park areas such as Haller Park and the Centennial Trail)
- Urban Conservancy – Low Intensity (park or protected areas which have lower intensity uses such as Portage Creek and Country Charm)
- Natural (certain isolated wetland areas)
- Aquatic (areas waterward of the ordinary high water mark)

Intensity of use, type of activity, and importance of the activity to our community are regulated through specific definitions within the five environment designations. The chart of approved uses for each of the four environment designations (Table 3.1) is a common-sense approach to what kind of activity we want to allow and where and how that activity can occur. For commercial activity, the plan further establishes a scale to

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evaluate the importance of a given activity to our community: water-dependent, water-related, and water-enjoyment.

The Washington State Legislature has defined the Stillaguamish River and its shoreline as a waterway of "statewide significance." As such, Arlington has an obligation to manage its portion of the river's shoreline in a way that provides the greatest benefit to the people of the region while at the same time acting as responsible stewards of the natural environment.

To provide the best guidance for the future uses along our shorelines we begin by looking to the past. The Stillaguamish Tribe of Indians had maintained a sustainable presence for the past 8,000 years. Tribal members transported the first Europeans up river in their shovel nose canoes using both Portage Creek and the main stem Stillaguamish to reach the forks where Haller City began adjacent to the Tribal village of Skabalko. This was the "grand central station" for a number of years for commerce, transportation and cultural practices. It will be important that we continue to recognize those values and plan appropriately so they live on in the future as potential uses.

When we look at development or re-development along this invaluable and irreplaceable resource, the over-riding environmental principle, the Hippocratic Oath of planning along the river, is that we suffer "no net loss of ecological function" by causing additional harm or making conditions worse. There is a significant amount of planning flexibility along the shoreline, as long as this basic rule is not violated. The environmental tests for maintaining ecological function are scientifically rigorous with the burden of proof resting primarily with the City to assure that a developer adheres to the policies and regulations.

We have the ability to produce a SMP that provides significant economic growth opportunities along with a broad range of recreational and education elements, while at the same time protecting and restoring the shoreline environment for future generations.

This update plan was initially produced primarily by knowledgeable consultants who have written SMPs for other communities with shoreline responsibilities, along with technical support and recommendations provided by City staff. The initial SMP was then tailored to fit Arlington through community involvement. A public open house and Planning Commission review of the initial SMP occurred in the fall of 2010. A revised SMP was then provided to Ecology for preliminary review.

After editing to address Ecology comments, this refined draft is presented for further Planning Commission and City Council review, and for public hearings. After City approval, the plan will be submitted to Ecology. There is a 60-day Ecology review period following that submittal which provides an opportunity for any final changes to

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occur prior to adoption. This effort was supported by an $80,000.00 grant provided by Ecology.

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READER'S GUIDE

Washington's Shoreline Management Act (SMA) was passed by the legislature in 1971 and affirmed by voters in 1972. The original shoreline master program (SMP) for the City of Arlington (City) was approved on December 27, 1974.

This document represents a comprehensive update to the City's SMP. Much has changed along the City's shorelines since the original SMP was developed. In addition, knowledge of best practices in the fields of development and conservation has evolved. There have also been changes in state laws and rules.

This SMP has been prepared to meet the requirements of the SMA (Revised Code of Washington (RCW) 90.58), the implementing state rules codified in the Washington Administrative Code (WAC) as Chapter 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines (Guidelines) that were significantly revised in 2003, and other applicable local, state, and federal laws. While developed locally, this SMP must meet the SMA and implementing state rules, and is subject to approval by the Washington State Department of Ecology (Ecology) before it can be implemented.

The contents of this SMP are structured as follows:

- Chapter 1, Authority and Purpose
- Chapter 2, Goals and Objectives
- Chapter 3, Shoreline Jurisdiction and Environment Designations
- Chapter 4, General Policies and Regulations
- Chapter 5, Shoreline Modifications and Uses
- Chapter 6, Nonconforming Uses and Development Standards
- Chapter 7, Shoreline Permits, Procedures and Administration
- Chapter 8, Definitions

To guide the reader, most sections or provisions show the source of the goal, policy, or regulation either in the body of the text or in parentheses, which may include citations to: the SMA (RCW 90.58), the Guidelines (WAC 173-26), the Shoreline Management Permit and Enforcement Procedures (WAC 173-27), current City comprehensive plan elements, or other example SMPs recently adopted and approved by the state.

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When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the Guidelines (WAC 173-26-020):

- "Shall" or "must" means a mandate; the action must be done.
- "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and SMP, against taking the action.
- "May" means the action is acceptable, provided it conforms to the provisions of this SMP.

In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations. Additional definitions are located in Chapter 8.

The SMP is intended to be detailed for the following reasons:

- To allow for more shoreline applications to be approved administratively for an efficient and cost-effective process.
- To cross-reference applicable state and federal laws to help consolidate requirements and be a resource for property owners and City staff.
- To provide some certainty of interpretation and application that benefits property owners and City staff over the long term.

More information about the SMP public review process and opportunities for public comment and public meetings can be found at:

http://www.arlingtonwa.gov/index.aspx?page=61

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1 AUTHORITY AND PURPOSE

1.1 The Shoreline Management Act

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The adoption of the SMA recognized "that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation" and that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest" (Revised Code of Washington (RCW) 90.58.020). The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses as follows: (RCW 90.58.020)

> *The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.*
>
> *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.*
>
> *The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing*

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master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

(1) Recognize and protect the statewide interest over local interest;

(2) Preserve the natural character of the shoreline;

(3) Result in long term over short term benefit;

(4) Protect the resources and ecology of the shoreline;

(5) Increase public access to publicly owned areas of the shorelines;

(6) Increase recreational opportunities for the public in the shoreline;

(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

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 and their appurtenant structures, 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. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

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.

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Under the SMA, shoreline master programs (SMPs) are created and implemented based on a "cooperative program of shoreline management between local government and the state" (RCW 90.58.050). The roles of local governments and the state are:

> *Local government shall have the primary responsibility for initiating the planning required by this chapter and administering the regulatory program consistent with the policy and provisions of this chapter. The department [of Ecology] shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policy and provisions of this chapter. (RCW 90.58.050)*

In recognition of the SMA and citizen ideas collected through a local shoreline planning process, the City of Arlington (City) has developed this SMP and will continually implement and administer it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) reviews and approves local SMPs and certain local permit decisions.

1.2 Authority

The Shoreline Management Act of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of this SMP.

1.3 Applicability

All proposed uses, activities, and development occurring within shoreline jurisdiction (See Chapter 3 for the definition of shoreline jurisdiction) must conform to the intent and requirements of the SMA (Chapter 90.58 RCW) and this SMP, whether or not a permit or other form of authorization is required. (RCW 90.58.140(1) and WAC 173-26-191)

As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.

1.4 Purpose and Intent

The purposes of this SMP are:

A. To promote the public health, safety, and general welfare of the community by providing comprehensive policies and effective, reasonable regulations for development and use and protection of jurisdictional shorelines; and (WAC 173-26-241(2)(a)(ii))

B. To further assume and carry out the local government responsibilities established by the SMA in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the SMA in RCW 90.58.020; and

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C. Protect against adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and (WAC 173-26-241(2)(a)(ii))

D. To give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas; and (WAC 173-26-241(2)(a)(i))

E. Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses; and (WAC 173-26-241(2)(a)(iii)).

F. Assure no net loss of ecological functions associated with the shoreline; and (WAC 173-26-241(2)(a)(iv)).

1.5 Relationship to Other Codes, Ordinances and Plans

All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction.

Consistent with RCW 36.70A.480, the goals and policies of this SMP approved under Chapter 90.58 RCW shall be considered an element of the City of Arlington Comprehensive Plan. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of the City of Arlington's development regulations. Snohomish County (County) shall administer the SMA in unincorporated urban growth areas.

In the event provisions of this SMP conflict with provisions of federal, state, or other City regulations, the provision that is most protective of shoreline resources shall prevail, when consistent with policies set out in the SMA. (RCW 90.58.900; WAC 173-26-221(6)(b)(ii))

1.6 Liberal Construction

As provided for in RCW 90.58.900, the SMA is exempted from the rule of strict construction; the SMA and this SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they were enacted. (RCW 90.58.900)

1.7 Severability

Should any section or provision of this SMP be declared invalid, such decision shall not affect the validity of this SMP as a whole. (Common ordinance construction; RCW 90.58.910)

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1.8 Effective Date

The SMP is hereby adopted on the XX date of XX, 2011. This SMP and all amendments thereto shall become effective immediately upon final approval and adoption by Ecology. (RCW 90.58.090(7)

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2 GOALS AND OBJECTIVES

Per Washington Administrative Code (WAC) 173-26-186(3), all relevant policy goals must be addressed in the planning policies of a SMP. This section contains shoreline goals and objectives. Goals express the ultimate aims of the City and its citizens. An objective identifies a more specific step that moves toward achieving a long-term goal. Goals and objectives provide a framework upon which the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures are based in subsequent chapters.

2.1 Economic Development Element (RCW 90.58.100(2)(a))

Goal ED-1. Promote a strong, diversified, and sustainable local and regional economy, while respecting the shoreline environment and preserving or enhancing public access to the shoreline. (based on City of Arlington Comprehensive Plan, GE-1)

Objective ED-1. Promote new water-dependent, water-related, and water-enjoyment economic development. (based on WAC 173-26-241(2)(a)(iii))

2.2 Public Access Element (RCW 90.58.100(2)(b))

Goal PA-1. Ensure public access to shorelines:

- is safe, convenient, and diversified;
- makes provisions for public access to publicly owned shoreline jurisdiction areas; (WAC 173-26-176(3), WAC 173-26-191(1)(b); based on 90.58.100(2))
- avoids adverse effects on fragile natural features; and
- minimizes conflicts between the public and private property.

Objective PA-1. Increase public access to shorelines by developing and implementing parks, recreation, and trails plans. (WAC 173-26-221(4)(c))

Objective PA-2. Require public access as part of public shoreline development where appropriate. (WAC 173-26-221(4)(d)(ii))

Objective PA-3. Require and/or encourage public access as part of private shoreline development in accordance with adopted jurisdiction

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shoreline public access plans, where appropriate. (WAC 173-26-221(4)(d)(iii))

Objective PA-4. Protect and enhance visual and physical access to shorelines. (WAC 173-26-221(4)(d)(iv))

Objective PA-5. Assure that public access improvements do not result in a net loss of shoreline ecological functions.

Objective PA-6. Encourage development of public access by using tools such as acquisition of land, incentives, etc.

2.3 Recreation Element (RCW 90.58.100(2)(c))

Goal REC-1. Maintain and support existing and future recreational opportunities in the shoreline. (based on City of Arlington Comprehensive Plan, GP-1)

Objective REC-1. Work with foundations, organizations, volunteer groups, associations, trusts, developers, landowners, others from the private sector and neighboring and regional governments to develop and/or preserve parks, trails, and open space by encouraging donations and dedications, conservation easements, innovative land use contractual agreements and other methods. (City of Arlington Comprehensive Plan, PP-3.4)

Objective REC-2. Ensure shoreline recreation facilities are preserved and enlarged as necessary to serve projected County and City growth in accordance with adopted levels of service. (WAC 173-26-241(3)(i))

Goal REC-2. Provide a diverse range of recreational opportunities in the shoreline. (based on City of Arlington Comprehensive Plan, GP-2)

Objective REC-3. Encourage the provision of art, interpretive, and educational facilities in parks and locations along the shoreline. (based on City of Arlington Comprehensive Plan, PP-2.6)

2.4 Circulation Element (RCW 90.58.100(2)(d))

Goal CIRC-1. Plan, develop, and maintain a balanced transportation system for the efficient movement of people, goods, and services within the City and between the community and other activity centers in the region. (based on City of Arlington Comprehensive Plan, GT-1)

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Objective CIRC-1. Encourage multiple modes of transportation. (WAC 173-26-241(3)(k))

Objective CIRC-2. Promote non-motorized travel and public access opportunities. (WAC 173-26-241(3)(k))

Objective CIRC-3. Locate new or expanded road corridors for motorized vehicles outside of shoreline jurisdiction unless there is no reasonably feasible alternative or location. (WAC 173-26-241(3)(k))

2.5 Shoreline Use Element (RCW 90.58.100(2)(e))

Goal SU-1. Ensure that the character and location of shoreline land uses optimizes the combined potentials for economic benefit and the enjoyment and protection of natural resources while minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.

Objective SU-1. Give preference along the shoreline to water-oriented and single-family residential uses, consistent with the control of pollution and prevention of damage to the natural environment. (RCW 90.58.020)

Objective SU-2. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline or provide significant public benefit. (WAC 173-26-241(3) (d), (f), (i), (j) and WAC 173-26-221(4))

2.6 Conservation Element (RCW 90.58.100(2)(f))

Goal CONS-1. To safeguard communitywide environmental conditions and resources the City shall encourage the effective stewardship of the environment and protect critical areas and conserve shoreline resources. (based on City of Arlington Comprehensive Plan, GL-19)

Objective CONS-1. Continue to amend and adopt land development regulations that ensure no net loss of shoreline ecological functions. (based on City of Arlington Comprehensive Plan, PL-19.1)

Objective CONS-2. Ensure compatibility of shoreline land uses with topography, geology, soil suitability, surface water, groundwater and aquifers, frequently flooded areas, wetlands, climate, vegetation, and fish

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and wildlife. (based on City of Arlington Comprehensive Plan, PL-19.4)

Goal CONS-2. Require site-sensitive development to protect environmental resources. (City of Arlington Comprehensive Plan, GL-20)

Objective CONS-3. Preserve existing native and non-invasive vegetation as much as possible due to its vital shoreline ecological functions. (based on City of Arlington Comprehensive Plan, GL-20.3)

Objective CONS-4. Protect salmonid streams, drainage ways, wetlands, and their buffers from adverse impacts of land development that might decrease low flows or increase high peak flows, reduce recharge areas for streams, increase bank or bed erosion, or increase turbidity of the water. (based on City of Arlington Comprehensive Plan, GL-20.4)

Objective CONS-5. The City considers, and deems worth of protection, the following sensitive resources: wetlands, streams and creeks, lakes and ponds, aquifer recharge areas, steep slopes, significant trees, fish and wildlife habitat and corridors, and frequently flooded areas. (based on City of Arlington Comprehensive Plan, GL-20.5)

2.7 Historic, Cultural, Scientific, and Educational Element (RCW 90.58.100(2)(g))

Goal HCSE-1. Protect and restore areas having significant historic, cultural, scientific, or educational value. (RCW 90.58.100(2)(g))

Objective HCSC-1. Promote the identification, maintenance, and preservation of possible geographical areas or structures that have special significance because of historical, archaeological, architectural, recreational, social, cultural, and/or scenic importance. (City of Arlington Comprehensive Plan, GL-24)

Goal HCSC-2. Protect shoreline features to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal, and federal authorities. (Recommendations by State Department of Archaeology and Historic Preservation (DAHP))

Objective HCSC-2. Protect sites in collaboration with appropriate tribal, state, federal, and local governments. Encourage cooperation among public and

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private parties in the identification, protection, and management of cultural resources. (Recommendations by DAHP)

Objective HCSC-3. When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource. (Recommendations by DAHP)

Objective HCSC-4. Provide opportunities for education related to archaeological, historical, and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs and development. (Recommendations by DAHP)

2.8 Flood Hazard Prevention Element (RCW 90.58.100(2)(h))

Goal FHP-1. Prevent and minimize flood damages, and the creation or expansion of flood hazards. (based on RCW 90.58.100(2)(h))

Objective FHP-1. Regulate land use and development to protect natural topographic, geologic, vegetational, and hydrological features in a manner that protects the citizens from those natural features through avoidance of exposure. (City of Arlington Comprehensive Plan, PL-28.2)

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3 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

As defined by the SMA, "shorelines of the state" include certain waters plus their associated "shorelands."

In the City of Arlington, shorelines of the state include rivers and streams whose mean annual flow is 20 cubic feet per second (cfs) or greater.

Shorelands are minimally defined by the SMA as:

> *those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter…. (RCW 90.58.030)*

Local jurisdictions may voluntarily elect to expand shoreline jurisdiction to include part or all of the remaining floodplain area that is located beyond 200 feet from either the ordinary high water mark (OHWM) or the floodway, or to include the buffers of associated wetlands that would otherwise be located outside of shoreline jurisdiction (see Appendix D for graphical illustrations of these options prepared by Ecology).

Certain waters of the state and their associated shorelands have elevated status under the SMA. In Arlington, the Stillaguamish River is considered to be a "shoreline of statewide significance," because it is a river "west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more." As such, the Stillaguamish River has the unique supplemental provisions outlined in Section 3.4.

Shoreline jurisdiction for the City is shown on the maps included in Appendix A. The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the OHWM, floodway, and presence of associated wetlands.

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any use, activity, or development on that portion of the parcel is subject to the regulations of this SMP. The other portions of the parcel are still subject to all City planning and zoning ordinances. City planning shall include concurrency planning with this SMP.

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3.2 Environment Designations

This SMP is intended to meet the requirements in WAC 173-26-211. It states that:

> *Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.*

This SMP is consistent with these requirements, deviating from WAC 173-26-211 (4) and (5) with the addition of a new environment designation tailored to local circumstances. Each environment designation contains a purpose statement, designation criteria, and management policies .

3.2.1 Aquatic

A. Purpose

The purpose of the Aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

B. Designation Criteria

An Aquatic environment designation is assigned to shoreline areas waterward of the OHWM.

C. Management Policies

Development within the Aquatic environment shall be consistent with the following policies:

1. New over-water structures should be prohibited except for water-dependent uses, public access, or ecological restoration.

2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

4. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to

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consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence described in WAC 173-26-201(2)(e).

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

3.2.2 Historic Shoreline Business District (HSBD)

A. Purpose

The purpose of the Historic Shoreline Business District is to protect historic resources, provide for continued commercial uses that are consistent with the historic character of the area, while protecting existing ecological functions, restoring ecological functions in areas that have been previously degraded, and enhancing public access to the shoreline.

B. Designation Criteria

A Historic Shoreline Business District environment designation is assigned to areas where more intense uses and development have historically occurred, are planned for in the future, and will not result in significant adverse impacts to the shoreline environment.

C. Management Policies

1. Encourage a mixture and variety of uses and activities in the Historic Shoreline Business District, particularly those that:

    a. preserve and/or restore the historic character of the City;

    b. provide an opportunity for the public to actively or passively enjoy the Stillaguamish River.

2. Maintain and enhance the historic character of the district by prohibiting incompatible uses and requiring compliance with design guidelines.

3. Allow development only in those areas where impacts and hazards caused by the proposed development can be effectively mitigated and where the

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environment is capable of supporting the proposed use in a manner that protects ecological functions.

4. Ensure that new development provides visual and physical public access, consistent with constitutional and statutory limitations, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline. In lieu of on-site improvements, the Shoreline Administrator may allow for off-site improvements if said improvements would provide a greater public benefit (WAC 173-26-221 (4)(c) and (d)).

5. Implement ecological and aesthetic objectives by restoring native shoreline vegetation where feasible.

3.2.3 Urban Conservancy-Low Intensity (UC-LI)

A. Purpose

The purpose of the Urban Conservancy-Low Intensity environment is to protect and restore ecological functions in low intensity settings, while allowing a variety of low-impact uses.

B. Designation Criteria

An Urban Conservancy-Low Intensity environment designation is assigned to shorelands that are not generally suitable for water-dependent uses with any of the following characteristics: they are suitable for low-impact uses or are designated for low-impact development; they are along undeveloped river banks, bluffs, wetlands, or other areas that should not be more intensively developed; they have potential for ecological restoration; they retain important ecological functions, even though partially developed.

C. Management Policies

1. Uses in the Urban Conservancy–Low Intensity environment should be limited to those which are non-consumptive (i.e., do not deplete over time) of the shoreline area's physical and biological resources and uses that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Shoreline habitat restoration and environmental enhancement are preferred uses.

2. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and recreational beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.

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

4. During development and redevelopment, all reasonable efforts should be taken to restore ecological functions. Where feasible, restoration should be required of all nonwater-dependent development on previously developed shorelines.

5. Construction of new structural shoreline stabilization and flood control works should not be allowed except where there is a documented need to protect public safety or ecological functions and mitigation is applied. New development should be designed and located to preclude the need for structural shoreline stabilization or flood control during the projected lifetime of the development.

6. Activities or uses that would strip the shoreline of vegetative cover, cause substantial erosion or sedimentation, or adversely affect wildlife or aquatic life should be prohibited.

7. Preservation of ecological functions should be balanced with public access and recreation objectives and should have priority over development objectives whenever a conflict exists.

8. The uses identified in the Country Charm Conservation area master plan and Graafstra Farm Buffer area Stewardship plan should be maintained and implemented in a manner to preserve or improve existing ecological function.

9. Stormwater management facilities should be located outside shoreline or critical areas buffers, as feasible.

3.2.4 Urban Conservancy-Open Space (UC-OS)

A. Purpose

The purpose of the Urban Conservancy-Open Space environment is to protect and "restore," as defined in this SMP, ecological functions in urban and developed settings, while providing public access and a variety of park and recreation uses.

B. Designation Criteria

An Urban Conservancy-Open Space environment designation is assigned to shorelands that are within public parks and trail corridors and to those areas which are especially suited to public access, water-oriented recreation, and ecological

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enhancement. Lands planned for park uses or resource conservation areas with no other commercial or residential land uses should also be designated Urban Conservancy-Open Space.

C. Management Policies

1. Water-oriented recreational uses should be given priority over nonwater-oriented uses. Water-dependent recreational uses should be given highest priority.

2. Commercial activities enhancing the public's use or enjoyment of publically accessible shorelines may be appropriate.

3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.

4. During development and redevelopment, all reasonable efforts, as determined by the City, should be taken to restore ecological functions.

5. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy-Open Space designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat.

6. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be avoided or mitigated.

3.2.4 Natural

A. Purpose

The purpose of the Natural environment is to protect certain wetlands associated with shoreline areas by applying Appendix B, Shoreline Environmentally Critical Areas. These systems require development restrictions to maintain the ecological functions and ecosystem-wide processes.

B. Designation Criteria

A Natural environment designation will be assigned to all wetlands in shoreline jurisdiction that are not otherwise contiguous with other shorelands, and are

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identified as part of shoreline jurisdiction because of their location in the 100-year floodplain.

C. Management Policies

1. Any use or modification that would substantially degrade the ecological functions or natural character of the designated wetland area should be prohibited.

2. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses, such as raised boardwalks, may be allowed provided that no significant adverse ecological impact on the area will result and that all impacts are fully mitigated.

3. The ecological resources in the Natural environment should be protected through the provisions in Appendix B of this SMP, Shoreline Environmentally Critical Areas.

3.2.5 Use Matrix and Development Standards

A. Table 3-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process as its primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

B. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.

C. Any use, development or modification not classified elsewhere in the SMP or listed below shall require a Shoreline Conditional Use Permit.

D. Uses and modifications identified as "Permitted" require either a Shoreline Substantial Development Permit or may be exempt from the requirement to obtain a Shoreline Substantial Development Permit, as outlined in the definition of Substantial Development included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.

E. If any part of a proposed development is not eligible for exemption, then a shoreline permit is required for the entire proposed development project.

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F. A development or use that is listed as a Conditional Use pursuant to this SMP, or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use may not require a Substantial Development Permit.

G. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 3-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the City's zoning and subdivision codes.

H. Except as otherwise stated, the City comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other City regulations, the more protective of shoreline ecological functions and processes shall prevail.

I. Where a use or modification may occur in the Aquatic environment as indicated in Table 3-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.

J. The permit processes indicated below for each use or modification apply to new, expanded, modified, or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined Section 7.6.2, Exemptions, a shoreline permit is not required if Table 3-1 indicates "SD/E." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.

K. An accessory use shall not be established on a property independent of its primary use.

L. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction, such development or use can only be authorized by approval of a Shoreline Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7. Shoreline Variances or Shoreline Conditional Use Permits are not required to modify development standards expressly allowed to be modified for visual access in Section 4.4.2 or for vegetation conservation reductions as allowed in Section 12.4.5, provided the modifications are consistent with the applicable zoning standards. Modifications to or greater reductions to standards

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established in Section 4.4.2 and Section 12.4.5 shall require a Shoreline Variance or a Shoreline Conditional Use Permit.

M. In the Natural environment, only those uses and modifications specifically allowed by the Shoreline Environmentally Critical Areas regulations found in Appendix B may be permitted with a Shoreline Substantial Development Permit and are thereby not specifically included in Tables 3-1 or 3-2. All other uses or modifications are prohibited.

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Table 3-1 Shoreline Use and Modification Matrix.

LEGEND **SD/E** = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption **CU** = Shoreline Conditional Use **X** = Prohibited, the use is not eligible for a Shoreline Variance or Shoreline Conditional Use Permit; or not applicable	**Aquatic**	**Historic Shoreline Business District**	**Urban Conservancy-Low Intensity**	**Urban Conservancy-Open Space**
Shoreline Use				
Agriculture	X	X	SD/E	X
Aquaculture	X	X	X	X
Commercial Development				
Water-dependent	X	SD/E	SD/E	SD/E
Water-related	X	SD/E	SD/E	SD/E
Water-enjoyment	X	SD/E	SD/E[1]	SD/E[1]
Nonwater-oriented	X	SD/E	SD/E[2]	SD/E[2]
Forest Practices	X	X	X	X
Industry				
Water-dependent	X	SD/E	X	X
Water-related	X	SD/E	X	X
Nonwater-oriented	X	SD/E	X	X
Institutional				
Water-oriented	X	SD/E	SD/E	SD/E
Nonwater-oriented	X	SD/E	SD/E	SD/E
In-Water Structures	CU	X	X	X
Mining	X	X	X	X
Recreational Development				
Water-dependent	X	SD/E	SD/E	SD/E
Water-enjoyment	X	SD/E	SD/E	SD/E
Nonwater-oriented	X	SD/E	SD/E[3]	SD/E[3]
Residential Development				
Single-family	X	SD/E	X	X
Multi-family	X	SD/E	X	X
Signage				
On premise	X	SD/E	SD/E	SD/E
Off premise	X	X	X	X
Public	X	SD/E	SD/E	SD/E
Transportation and Parking				
Parking, primary	X	X	X	X
Parking, accessory	X	SD/E[4]	SD/E[4]	SD/E[4]
Roads, railways	CU	SD/E	SD/E[5]	SD/E[5]
Utilities, primary	CU	SD/E	SD/E[5]	SD/E[5]
Shoreline Modification				
Boating Facilities[6]				
Boat launch, commercial	SD/E	SD/E	X	X
Boat launch, public	SD/E	SD/E	SD/E	SD/E

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LEGEND **SD/E** = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption **CU** = Shoreline Conditional Use **X** = Prohibited, the use is not eligible for a Shoreline Variance or Shoreline Conditional Use Permit; or not applicable	**Aquatic**	**Historic Shoreline Business District**	**Urban Conservancy-Low Intensity**	**Urban Conservancy-Open Space**
Breakwaters, Jetties, Groins, Weirs	X	X	X	X
Clearing and Grading	--	SD/E	SD/E	SD/E
Dredging and Dredge Material Disposal	CU	X	X	X
Fill[7]	CU[8]	SD/E	SD/E	SD/E
Moorage Facilities	X	X	X	X
Shoreline Habitat and Natural Systems Enhancement Projects	SD/E	SD/E	SD/E	SD/E
Shoreline Stabilization				
Bioengineering	CU	SD/E	SD/E	SD/E
Dikes, levees	X	CU	CU	CU
Hard structural shoreline stabilization	CU	SD/E	CU	CU

[1] Park concessions, such as small food stands, cafes, and restaurants with views and seating oriented to the water, and uses that enhance the opportunity to enjoy publicly accessible shorelines are allowed.

[2] Seasonal uses supporting water-oriented activities which may include equipment rental, food venders, or safety supplies may be allowed.

[3] Nonwater-oriented uses may be allowed as a permitted use where the City determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body or due to the underlying land use classification in the comprehensive plan.

[4] Accessory parking is allowed in shoreline jurisdiction only if there is no other feasible option, as determined by the City.

[5] Utilities, roads, and railways are allowed if there is no other feasible alternative, as determined by the City, and all significant adverse impacts are mitigated.

[6] Marinas are prohibited.

[7] Fill in the floodplain must meet all federal, state, and local flood hazard reduction regulations.

[8] Fill in aquatic areas for the purposes of shoreline ecological restoration may be allowed as a permitted use if the Shoreline Administrator determines that there will be an increase in desired ecological functions.

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Table 3-2 Shoreline Development Standards Matrix.

LEGEND **NA** = Not applicable Note: All dimensions are in feet.	**Aquatic**	**Historic Shoreline Business District**	**Urban Conservancy-Low Intensity**	**Urban Conservancy-Open Space**
Shoreline Buffer – All Uses	NA	30[1]	150	150
Shoreline Environmentally Critical Areas Buffers	NA	See Appendix B		
Shoreline Lot Frontage Minimum – Residential	NA	60	NA	NA
Side Yard Setback Minimum – Residential	NA	5	NA	NA

[1] The 30-foot buffer is measured from the OHWM, floodway boundary, or the top of slope, whichever is most protective of the shoreline.

N. **Height exceeding 35 Feet.** Development in the Historic Shoreline Business District environment designation and the portion of the Urban Conservancy – Low Intensity environment designation adjacent to Portage Creek may exceed 35 feet where the underlying zones or a Transfer of Development Rights program allows for greater heights and when consistent with the following provisions:

1. The applicant shall prepare a view analysis. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35 feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.

2. Building or structures heights between 35 feet and 60 feet may be allowed as part of a Shoreline Substantial Development Permit if the following criteria are affirmatively met:

   a. The building or structure will not impact a substantial number (>50%) of residences. The applicant shall review view impacts to residences involved on or in an area adjoining the project area.

   b. The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development

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will obstruct less than 30 percent of the horizontal and vertical view of the shoreline enjoyed by a substantial number (>50%) of residences on areas adjoining such shorelines.

3.2.6 Official Shoreline Map and Unmapped or Undesignated Shorelines

A. Appendix A (Environment Designations Maps) includes the Official Shoreline Maps, which illustrate the delineation of shoreline jurisdiction environment designations in the City of Arlington.

B. Any associated wetlands that are located within mapped environment designations other than Natural shall have the same environment designation as their surroundings.

C. Any areas within shoreline jurisdiction (including associated wetlands that are contiguous with other shorelands) that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation.

D. Areas of shoreline jurisdiction that are continuous with mapped shorelands, but were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy-Low Intensity designation until the shoreline can be redesignated through an SMP amendment. Additional unmapped and undesignated wetlands that may be identified in the 100-year floodplain, and are not otherwise contiguous with mapped and designated shorelands, shall be assigned a Natural environment designation.

E. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain jurisdiction as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Note that the actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. A current OHWM determination must be submitted with a permit application; however, if site conditions change (e.g. flooding or major storms) during the permit approval process or prior to construction, the OHWM determination shall be re-verified. Floodplain and floodway boundaries should be assessed using the most recently revised FEMA maps. Wetland boundary delineations shall be valid for five years.

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3.2.7 Interpretation of Environment Designation Boundaries

A. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail, as determined by the City.

B. If disagreement develops as to the exact location of an environment designation boundary line, the following rules shall apply:

1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed as determined at the effective date of this SMP. Where boundary line adjustments or other modifications are not indicated on the Official Shoreline Maps and where the adjustments involve two or more parcels with different environment designations, a designation of Urban Conservancy shall be assigned to shoreline jurisdiction on the subject properties until the shoreline can be redesignated through an SMP amendment.

2. Boundaries indicated as approximately following roads or rail lines shall be respectively construed to follow the nearest right-of-way edge.

C. In the event of an environment designation mapping error, the Shoreline Administrator shall utilize the criteria contained in RCW 90.58.030(2), chapter 173-22 WAC, and the environment designation criteria contained in this SMP to establish the appropriate environment designation. Appeals of such interpretations may be filed pursuant to Section 7.13.

D. All shoreline areas waterward of the OHWM shall be designated Aquatic.

E. Upland environment designations shall apply to shorelands.

F. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature or clearly described boundary.

3.3 Shoreline Use Preferences

This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

> *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*

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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 and their appurtenant structures, 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.

When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent and associated water related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

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3.4 Shorelines of Statewide Significance

3.4.1 Designation Criteria

In the City of Arlington, the Stillaguamish River, as well as its shorelands and associated wetlands, are considered to be "shorelines of statewide significance," because this section of the Stillaguamish River is "west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more."

3.4.2 Use Preferences

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in the City of Arlington, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following descending order of preference:

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 ecology of the shoreline;

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

F. Increase recreational opportunities for the public in the shoreline;

G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))

The City shall provide optimum implementation of these policies, which place special emphasis on statewide objectives and consultation with state agencies, as well as a greater imperative on understanding and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance. Uses that are not consistent with the above preferences should not be permitted on shorelines of statewide significance.

3.4.3 Policies

Consistent with the use preferences for shorelines of statewide significance contained in RCW 90.58.020, the City will base decisions administering this SMP on the following policies in order of decreasing priority: (WAC 173-26-251(3)(a-e) and WAC 173-26-251(2))

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

1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to the SMP, and any proposed amendments affecting shorelines of statewide significance, to state agencies, affected Tribes, adjacent jurisdictions, citizen's advisory committees, local officials, and state-wide interest groups.

2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.

3. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

B. Preserve the natural character of the shoreline.

1. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.

2. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.

3. Protect and restore existing diversity of vegetation and habitat functions and values, wetlands, and riparian corridors associated with shoreline areas.

4. Protect and restore ecosystem processes that provide habitat for state-listed "priority species."

C. Support actions that result in long-term benefits over short-term benefits.

1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

2. Preserve resources and values of shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.

3. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, and unique environments.

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D. Protect the resources and ecology of the shoreline.

1. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in section 4.2.2 of this document to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.

2. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.

E. Increase public access to publicly owned areas of the shoreline.

1. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines where it would not threaten ecological function, especially those trail corridors that would be a regional recreational and transportation resource.

2. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.

F. Increase recreational opportunities for the public on the shoreline.

1. Plan for and encourage development of facilities for public recreational use of the shoreline.

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4 General Policies and Regulations

Chapter 4 presents general policies and regulations that apply to any developments, uses, or activities in any environment designation in order to protect environmental and cultural resources, reduce likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

4.1 Archaeological and Historic Resources

4.1.1 Policies

A. **Impact Avoidance.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State Department of Archaeology and Historic Preservation, or any site having such resource(s) that have been inadvertently uncovered. (WAC 173-26-221(1)(a and b))

   Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the cultural resource or to provide appropriate mitigation. Impacts to neighboring properties and other shoreline uses should be limited to temporary or reasonable levels. (Recommended by DAHP)

B. **Adjacent Cultural Site.** If development or demolition is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site. (Recommended by DAHP)

4.1.2 Regulations

A. **Known Archaeological Resources.** Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. (WAC 173-26-221(1)(c))

B. **Uncovered Archaeological Resources.** Developers and property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation. (WAC 173-26-221(1)(c))

C. **Other Laws and Rules.** Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and

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chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC, as well as the provisions of this shoreline master program (SMP). (WAC 173-26-221(1)(a))

4.2 Ecological Protection and Critical Areas

4.2.1 Policies (based on WAC 173-26-201(2)(c) and 173-26-221(2))

A. **No net loss of ecological functions.** Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate up- or downstream, so that the resulting ecological condition does not become worse than the current condition. For each development, this means assuring no net loss of ecological functions and processes relative to the existing condition, protecting shoreline environmentally critical areas designated in Appendix B of this SMP, and protecting additional established shoreline buffers in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Shoreline ecological functions that should be protected include, but are not limited to: fish and wildlife habitat, wildlife migration corridors, food chain support, and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to: water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

B. **Consider project and cumulative impacts.** In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.

C. **Development standards should protect functions.** Development standards for density, frontage, buffers, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

D. **Environmentally critical areas.** Environmentally critical areas within shoreline jurisdiction are regulated by Appendix B (Shoreline Environmentally Critical Areas) of this SMP. Although the regulations contained in Appendix B are nearly identical to the Environmentally Critical Areas regulations codified in Chapter 20.88 of the City of Arlington Municipal Code, pursuant to requirements of the Shoreline Management Act, the regulations in Appendix B are distinct. If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply.

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4.2.2 Regulations (based on WAC 173-26-201(2)(c and e) and 173-26-221(2))

A. **Mitigation sequencing.** Applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts to ecological function resulting from new development and redevelopment in shorelines in the following prioritized, descending order (WAC 173-26-201(2)(e)(i))

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

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

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

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

B. **Applicability.** The provisions of this section and Appendix B, Shoreline Environmentally Critical Areas, shall apply to any use, alteration, or development within shoreline jurisdiction, whether or not a shoreline permit or written statement of exemption is required.

C. **Protection of buffers.** Unless otherwise stated, critical area buffers and shoreline buffers shall be protected and/or enhanced pursuant to Appendix B, Shoreline Environmentally Critical Areas, and all other applicable provisions of this SMP.

D. **Mitigation required for impacts.** Mitigation shall be required for all projects within shoreline jurisdiction, including those waterward of the OHWM and within intact shoreline buffers, having impacts on ecological functions. Mitigation ratios are specifically established in Appendix B, Shoreline Environmentally Critical Areas, for impacts to wetlands and wetland buffers. All other mitigation, including for Fish and Wildlife Habitat Conservation Areas and their buffers, must be designed to result in no net loss of ecological functions.. In general, mitigation is required at a ratio of one unit of mitigation for one unit of impact by area. However, depending

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on the nature and extent of impacts and proposed mitigation, a reduction in the ratio may be allowed or an increase in the ratio may be required to meet the no net loss of ecological functions standard if justified in a plan submitted to the City of Arlington (City). (WAC 173-26-201(2)(e))

E. **Mitigation plan requirements.** In the event that mitigation is required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant mitigation plan requirements of the City listed in Appendix B, including a five-year monitoring plan and scaled drawings of existing and proposed conditions. Mitigation plans shall describe actions that will ensure no net loss of ecological functions, including measurable performance standards. Mitigation measures shall be maintained over the life of the use and/or development.

F. **Location of mitigation.** When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed sub-basin that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. If there are no previously identified mitigation opportunities in the impacted sub-basin identified in local watershed or comprehensive plans the applicant will use a watershed approach in selecting mitigation sites utilizing *Selecting Wetland Mitigation Sites Using a Watershed Approach* (*Western Washington*) (Publication #09-06-32). Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions. (WAC 173-26-201(2)(e)(ii)(B))

G. **Hydrologic connections.** Protect hydrologic connections between waterbodies and associated wetlands.

H. **Cumulative effects.** The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved. The cumulative impacts analysis conducted by the applicant for the project should follow the framework of the cumulative impacts analysis completed for this SMP. Where the project deviates from the assumptions of the programmatic analysis, additional project-related analysis should be completed demonstrating how the goal of no net loss of ecological functions will be met in spite of those deviations. Depending on the project, additional mitigation may be required to offset cumulative impacts.

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4.3 Flood Hazard Reduction

The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that are proposed in flood hazard areas. Flood hazard reduction measures may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of flood waters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline waterbody (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood water. Shoreline stabilization is addressed in Section 5.18.

The City of Arlington implements flood hazard reduction through the following means:

A. Plans and Policies: City of Arlington Comprehensive Plan, Stillaguamish River Comprehensive Flood Hazard Management Plan

B. Regulations: critical areas, floodplain, and stormwater regulations

4.3.1 Policies.

A. **Implement Flood Hazard Plans and Regulations.** The City should ensure public and private development applications site and design flood control measures are consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, watershed plans, channel migration zone plans, restoration plans, critical area regulations, floodplain regulations, and stormwater management plans and regulations in order to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, and soil. (WAC 173-26-221(3)(b)(ii) and (iii))

B. **No Net Loss of Ecological Functions.** Flood protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes. (WAC 173-26-221(3)(b)(iv))

C. **Non-structural Methods Preferred.** Where feasible, non-structural methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be required as an alternative to structural flood control works. Non-structural methods may include, but are not limited to, shoreline buffers, land use controls, use relocation, wetland restoration, dike removal,

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biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs. (WAC 173-26-221(3)(b)(i) and (vi))

D. **Avoid Structural Flood Control Works.** New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a river, channel migration zone, floodway, or lake should not be allowed. (WAC 173-26-221(3)(c)(i))

E. **When Non-structural Flood Control is Infeasible.** New structural flood control works should only be allowed in shoreline jurisdiction when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development or mitigate or resolve existing stormwater problems, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, that appropriate vegetation conservation actions are undertaken consistent, and where non-structural flood hazard reduction measures are infeasible. (WAC 173-26-221(3)(c)(ii))

F. **Bioengineered Flood Control Works.** Unless otherwise determined infeasible by federal or state agencies with permit authority or by the Shoreline Administrator, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. (WAC 173-26-221(3)(b)(v) and (vii))

G. **Avoid Damage to Other Properties**. Flood control works and shoreline uses, development, and shoreline modifications should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained. (WAC 173-26-221(3)(b)(v))

4.3.2 Regulations

A. **Avoid Increase in Flood Hazards.** Development in floodplains shall, consistent with applicable flood hazard plans and regulations, avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with all City regulations including: shoreline environmentally critical areas regulations (Appendix B of this SMP), stormwater regulations (Section 4.6 of this SMP), in-water structure regulations (Section 5.12 of this SMP), as well as guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and an adopted comprehensive flood hazard management plan approved by the Washington Department of Ecology, and the City's comprehensive flood hazard management plan. (WAC 173-26-221(3)(c)(i))

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B. **Channel Migration Zone (CMZ)**. Applicants for a shoreline development or modification may be required to submit a site-specific channel migration zone study at the discretion of the Shoreline Administrator.

C. **Uses and Activities Authorized in Floodway or CMZ.** The following uses and activities may be authorized where appropriate and/or necessary within the channel migration zone or floodway: (WAC 173-26-221(3)(c)(i))

1. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

2. Bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. For the purposes of this section unreasonable and disproportionate means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost, and the long-term maintenance or repair costs are not significantly different between options inside or outside of the floodway or channel migration zone. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

3. Repair and maintenance of an existing legally established use, provided that channel migration is not further limited, or flood hazards to other uses increased, and that the new development or any expansion includes appropriate protection of ecological functions and does not increase any flood hazards.

4. Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding and where necessary for protection of existing structures or public safety.

5. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

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

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D. **Structural Flood Hazard Reduction Measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with SMP Section 4.5, Vegetation Conservation. (WAC 173-26-221(3)(c)(ii)) Structural flood hazard reduction measures shall be consistent with the City's comprehensive flood hazard management plan.

E. **Placement of Structural Flood Hazard Reduction Measures.** New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical and hydrological analysis. (WAC 173-26-221(3)(c)(iii))

F. **Public Access.** See Section 4.4.2. (WAC 173-26-221(3)(c)(iv))

G. **Gravel Removal.** The removal of gravel for flood management purposes shall be consistent with Section 5.8 Dredging, and be allowed only as a conditional use after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. (WAC 173-26-221(3)(c)(v))

H. **New Development and Subdivisions.** Approve new development or subdivisions when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use. (WAC 173-26-221(3)(c)(i))

I. **Roads and Railroads.** Roads or railroads shall be built outside the floodway except for necessary crossings, and repair or maintenance of existing roads and railroads. New transportation facilities shall be designed so that no significant loss of floodway capacity or measurable increase in predictable flood levels will result based on studies submitted by applicants and approved by the City. If proposed transportation facilities are intended to secondarily provide flood control, they shall comply with policies and regulations of Section 4.3. (WAC 173-26-241(3)(k))

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4.4 Public Access

A. **Applicability.** Shoreline public access is the physical ability of the general public to reach and touch the water's edge and the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, viewing towers, bridges, boat launches, beach access and improved street ends.

Physical public access to shorelines in the City of Arlington is available at Haller Park and Twin Rivers Park. The County Charm Conservation and Recreation Area will provide additional public access.

The City would like to develop a water trail linking various public access points that could be used by recreational boaters. This would maintain the historical connection to pioneer families, who were transported along local rivers by the Stillaguamish Tribe in their shovelnose canoes.

Additionally, the City is also planning a comprehensive trail system that would allow pedestrian traffic to have easy access to area commercial and recreational opportunities.

B. **Policies**

1. Public access should be considered in the review of all private and public developments with the exception of the following:

    a. One- and two-family dwelling units; or

    b. Where deemed inappropriate due to health, safety and environmental concerns.

2. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water or the rights of navigation.

3. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts and some portion of access should be designed in accordance with the Americans with Disabilities Act.

4. Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.

5. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should be a physical separation or other means of clearly

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delineating public and private space in order to avoid unnecessary user conflict.

6. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of existing native vegetation that partially impairs views, as a healthy shoreline condition includes mature riparian forest.

7. Public access and interpretive displays should be provided as part of publicly funded restoration projects where significant ecological impacts can be avoided.

8. City parks, trails, and public access facilities adjacent to shorelines should be maintained and enhanced in accordance with City and County plans.

9. Commercial and industrial waterfront development should be required to provide a means for visual and pedestrian access to the shoreline area wherever feasible.

10. The acquisition of suitable upland shoreline properties to provide access to publicly owned shorelands should be encouraged.

C. **Regulations**

1. Shoreline substantial development (including land division into more than four lots) or conditional uses, either of which fronts directly on the shoreline, shall provide physical public access where any of the following conditions are present:

    a. Where a development or use will interfere with an existing public access way. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.

    b. Where the development is proposed by a public entity or on public lands unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment or where more effective public access is identified in the City planning documents.

    c. The shoreline permit file shall describe the impact, the required public access conditions, and how the conditions address the impact. Mitigation for public access impacts shall be in accordance with the definition of mitigation and mitigation sequencing in Subsection 4.2.2.

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2. For multi-family development and subdivisions of land into more than four parcels, public access shall be provided, however, community access for residents of that development may be provided as a substitute for full public access through a conditional use permit on a case-by-case basis.

3. Shoreline substantial development (including land division into more than four lots) or conditional uses shall minimize and mitigate impacts to public views of shoreline waterbodies from public land or substantial numbers of residences.

4. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (This is a requirement of RCW 35.79.035 and RCW 36.87.130).

5. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.

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

7. Public access easements and permit conditions shall be recorded as a covenant against the title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use. Said recording with the County Assessor's Office shall occur prior to permit approval (section 58.17.110 RCW).

8. Minimum width of public access easements shall be 20 feet, unless the City Shoreline Administrator determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

9. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.

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

11. Public access facilities may be developed over water provided that all ecological impacts are mitigated to achieve no net loss of ecological functions.

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4.5 Vegetation Conservation and Shoreline Buffers

4.5.1 Policies

A. **Conserve native vegetation.** Where new developments and/or uses or redevelopments are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:

1. Providing shade necessary to maintain water temperatures required by salmonids and other organisms that require cool water for all or a portion of their life cycles.

2. Regulating microclimate in riparian and nearshore areas.

3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.

4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.

5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.

6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants (including the retention of forest duff to support the biological components of pollutant transformation).

7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for salmonids and other species.

8. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover. (list based on WAC 173-26-221(5)(b))

B. **Restoration native plant list.** A native plant list will be used that identifies the native species most suitable for shoreline restoration and enhancement projects. At a minimum, all plants utilized in shoreline buffers should be native as indicated by the Washington Native Plant Society.

C. **Noxious and invasive weeds.** Where new developments and/or uses or redevelopments are proposed, require management and control of noxious and

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invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of non-toxic or natural controls is preferred. (WAC 173-26-221(5)(c)(i))

4.5.2 Regulations (based on extensive "Principles" (WAC 173-26-221(5)(b)) and "Standards" (WAC 173-26-221(5)(c)))

A. **Conserve vegetation.** Shoreline developments shall address the conservation and maintenance of vegetation and forest soils through compliance with this Section, the shoreline environmentally critical areas standards in Appendix B, and any other regulations specific to vegetation management that may be contained in other chapters of this SMP.

B. **Minimize clearing.** Vegetation clearing within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development.

C. **Mitigation required.** Where impacts to shoreline or critical area buffers are permitted and after mitigation sequencing has been applied as outlined in Section 4.2.2(A), new developments or site alterations shall be required to develop and implement a mitigation plan (see Section 4.2.2.E).

D. **Filling, clearing and grading**. Filling, clearing and grading in vegetated shoreline areas within shoreline jurisdiction shall be in conformance with the provisions of: Section 5.9, Fill; Section 4.2, Ecological Protection and Critical Areas; Appendix B, Shoreline Environmentally Critical Areas; and any other applicable provisions of this SMP. Note that filling, clearing and grading below the OHWM or within wetlands requires separate state and federal authorizations.

E. **Tree pruning and removal.** Selective pruning of trees for safety or view protection is allowed if consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; Appendix B, Shoreline Environmentally Critical Areas; and F, below. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed from shoreline and critical area buffers if the hazard cannot be removed by topping or other technique that maintains some habitat function. All other tree removal in shoreline jurisdiction shall be minimized through site design, and mitigated. In general, trees that are cut down should be retained in the protected area to provide continued biological or soil stabilization functions.

F. **View corridors.** The development or maintenance of view corridors can provide opportunities for visual access to waterbodies associated with waterfront lots. One view corridor, limited to 25 percent of the width of the lot, or 25 feet, whichever distance is less, may be permitted per lot, when consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; Appendix B, Shoreline

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Environmentally Critical Areas; and this Section. A mitigation plan as required by C above must be submitted for review and approval; either with the appropriate shoreline permit application or in association with a shoreline exemption proposal for a new development or associated with an existing development.

1. In addition to the submittal of a complete mitigation plan, an applicant must submit the following materials:

    a. A graphic and/or site photos for the entire shoreline frontage which demonstrates that the existing or proposed development does or will not when constructed have a view corridor of the waterbody, taking into account site topography and the location of existing shoreline vegetation on the parcel.

    b. Demonstration that where the applicant already has an accessible shoreline access corridor per the Vegetation Conservation section, the view corridor will include the existing shoreline access corridor to minimize alteration of the shoreline buffer.

2. Applications for view corridors must also be consistent with the following standards:

    a. Native vegetation removal shall be prohibited, unless the entire shoreline buffer consists of native vegetation. Under those circumstances, native vegetation removal may be allowed provided that the view corridor is located to minimize removal of native trees (for example, by branch removal rather than complete tree removal) and shrubs.

    b. Pruning of native trees shall be conducted by or under the supervision of a qualified professional such that the tree's long-term health shall not be compromised. Native shrubs shall not be pruned to a height less than 6 feet. No tree topping shall occur. Pruning of vegetation waterward of the OHWM is prohibited.

    c. Non-native vegetation within a view corridor may be removed when the mitigation plan can demonstrate a net gain in site functions, and where any impacts are mitigated.

    d. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.

    e. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may

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be permitted to maintain the approved view corridor from regrowth. Limitations and guidelines for this maintenance shall be established in the mitigation plan.

G. **Unauthorized vegetation removal**. Vegetation removal conducted without the appropriate review and approvals requires the submittal and approval of a restoration plan prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Shoreline Environmentally Critical Areas. The mitigation plan must utilize only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.

H. **Non-native vegetation.** With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in a shoreline or critical area buffer must be evaluated in conformance with Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Shoreline Environmentally Critical Areas. Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline or critical area buffers does not require mitigation, except as noted under Subsection E above. Aquatic vegetation removal or treatment requires all applicable permits.

I. **Existing uses may continue.** Vegetation conservation standards shall not apply retroactively to existing uses and developments, as long as the existing development is meeting the conditions of the land use permit for that development (e.g. Notice on Title). Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP while still required to meet any recorded requirements. New residential structures or accessory developments, including, but not limited to, pools, residence additions, sheds or residential appurtenances such as a decks, driveways, utilities, garages, and fences are not permitted in shoreline buffers except as specifically allowed in this SMP.

J. **Water-dependent uses.** Consistent with the use allowances for each environment designation, water-dependent uses and activities may be located at the water's edge, or as prescribed by conditions added to a permit. Accessory uses, developments and activities should be located outside the standard or reduced shoreline buffer unless a location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch) or no other location is feasible (e.g., the water-

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dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer). All other accessory uses, developments and activities located in a shoreline buffer must obtain a Shoreline Variance.

K. **Public facilities and other water-oriented uses.** Consistent with the use allowances for each environment designation, other essential public facilities, public access facilities, and their accessory uses and developments may be located in the shoreline buffer if the use or activity cannot be accommodated or accomplished outside of the standard or reduced shoreline buffer. These uses and modifications must be designed and located to minimize intrusion into the buffer and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.4, Public Access.

L. **Passive allowed activities.** Education, scientific research, and passive recreational activities, including, but not limited to: fishing, bird watching, hiking, boating, horseback riding, skiing, swimming, canoeing, and bicycling, are allowed within shoreline jurisdiction and within established shoreline buffers, provided the activity does not alter the buffers by introducing impervious surfaces; removing native vegetation; impacting seasonal migration or nesting of wildlife; or changing existing topography, water conditions, or water sources.

M. **Site investigation allowed.** Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests and other related activities, may occur within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In every case, critical areas and buffer impacts should be avoided and/or minimized and disturbed areas shall be immediately restored. Ground-disturbing activities (filling, clearing, excavation and grading) below OHWM or within wetlands will require separate state and federal authorization when applicable.

N. **Siting of roads.** Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction. Crossings, where necessary, shall cross shoreline and critical area buffers at as near right angles as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands. If no alternative exists to placing a roadway in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be submitted, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Shoreline Environmentally Critical Areas.

O. **Utilities.** Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, these uses may be permitted if also allowed under Section 5.20,

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Utilities. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.

P. **Trails.** Trails and associated facilities may be permitted in shoreline buffers, but should be the minimum necessary width, and placed to not impact wildlife migration corridors, nesting or feeding area. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B, Shoreline Environmentally Critical Areas.

Q. **Shoreline Buffer Width Reduction.**

1. **Roads and Railways.** Where a legally-established road or railway transects a shoreline or stream buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved road or railway if the part of the buffer on the upland side of the road or railway sought to be reduced:

    a. does not provide additional protection of the shoreline waterbody or stream; and

    b. provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream; and

    c. is effectively and functionally disconnected from the upland portion of the buffer due to the large size or high activity of the road or railway.

2. Reductions of up to twenty-five (25) percent of the standard buffer width may be approved if the applicant demonstrates that either:

    a. enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a significantly higher level than the existing standard buffer; or

    b. conditions unique to the site, including existing uses, developments, or topographic barriers that may exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.

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c. The buffer averaging found in Appendix B will not accommodate the allowed use.

3. The applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of any reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in Appendix B. Plan elements may include one or more of the following options provided to achieve an equal or greater protection of ecological functions:

   a. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.

   b. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, in a form acceptable to the City and recorded with the County Auditor.

4. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to an Interagency Review Team approved fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first. However, alternative compensatory mitigation within the watershed sub-basin that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. If there are no previously identified mitigation opportunities in the impacted sub-basin identified in local watershed or comprehensive plans the applicant will use a watershed approach in selecting mitigation sites utilizing *Selecting Wetland Mitigation Sites Using a Watershed Approach* (*Western Washington*) (Publication #09-06-32).

5. The design of uses or activities under Subsection 14.4.5.A. shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.

6. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the

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water's edge, such as boat fuel stations, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities specifically identified in Table 3.1. Where space is available, the required native vegetation shall be planted in the shoreline buffer area that is not being used for water-dependent or public access uses.

4.6 Water Quality, Stormwater and Nonpoint Pollution

4.6.1 Policies

A. **Do not degrade waters.** The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.

B. **Assess and mitigate stormwater impacts.** New developments or expansions or retrofits of existing development should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse affects on shorelines through design and implementation of appropriate stormwater management facilities.

C. **Low impact development.** Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation (including the avoidance of soil disturbance), and retrofitting and built-out management techniques.

D. **Minimize need for chemical applications.** Shoreline use and development, including invasive or noxious weed control, should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values.

E. **Provide and maintain buffers.** Appropriate buffers along all wetlands, streams, and rivers should be provided, restored, and maintained for new or expanded development in a manner that avoids the need for chemical treatment for vegetation management and be consistent with the critical areas provisions of this SMP and best management practices.

F. **Existing development.** For existing development, implementation of management plans that minimize or avoid the need for chemical treatments of vegetation in shoreline buffers is encouraged.

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4.6.2 Regulations

A. **Do not degrade waters.** Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws. (WAC 173-26-221(6)(b)(i))

B. **Requirements for new development.** New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management manual in effect at the time, including the use of best management practices. Deviations from these standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan. Additionally, new development shall implement low impact development techniques where feasible and necessary to fully implement the core elements of the stormwater management manual. (WAC 173-26-221(6)(b)(ii))

C. **Maintenance of storm drainage facilities.** Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.

D. **Use BMPs.** Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment control (TESC) plan, identified in the stormwater management manual, as amended, or administrative conditions, in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.

E. **Low Impact Development.** Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

F. **Public stormwater systems.** Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

G. **Sewage management.** To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards, in addition to requirements outlined below. (WAC 173-26-221(6)(b)(ii))

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H. **Materials requirements.** All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, 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 from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in shoreline waterbodies. (WAC 173-26-221(6)(b)(i-ii)

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5 SHORELINE MODIFICATIONS AND USES

Chapter 5 presents specific policies and regulations that apply to particular developments, uses, or activities in any environment designation.

Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities. The Use Matrix and Development Standards found in Subsection 3.2.6 are considered part of the regulations.

5.1 General Upland Shoreline Modification and Use Regulations

This section provides policies and standards addressing preferred layouts of shoreline development and appropriate signage serving the intended use and recognizing shoreline locations.

5.1.1 Policies

A. **Designs Avoid Sensitive Areas.** Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values. (Proposed based on principles described in Chapter 4)

B. **Location of Accessory Uses**. Non-water oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline, riparian and/or wetland buffers and landward of water-oriented developments and/or other approved uses. (based on use preferences in RCW 90.58.020, WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))

C. **Minimize Impacts on Shoreline and Upland Uses**. Development should be located, designed, and managed to minimize impacts on shoreline or upland uses through bulk and scale restrictions, setbacks, buffers, light shielding, noise attenuation, and other measures. (WAC 173-26-211(4)(a)(iv))

D. **Vistas and Viewpoints.** Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs.

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5.1.2 Regulations

A. **Design Features for Compatibility.** Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Development projects must meet the requirements in Chapter 20.46 (Design) of land use code when applicable. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including: (WAC 173-26-211(4)(a)(iv) and 221(4)(d)(iv))

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

2. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.

3. Outdoor storage shall be screened from public view through techniques such as landscaping, berming, fencing and/or other equivalent measures.

4. Property screening in the form of fences or berms shall not block visual access to the shoreline, and shall be subject to Section 5.1.2.D below.

B. **Preference for Water-Oriented Facility Location.** Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction. (based on use preferences in RCW 90.58.020, WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))

C. **Minimize Changes to Topography.** To the extent feasible, design of structures shall conform to natural contours and minimize disturbance to soils and native vegetation. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features, especially natural drainage patterns and springs. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the extent feasible while meeting applicable government standards. (based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)

D. **Soil Disturbance.** All disturbed areas shall be restored and protected from erosion using vegetation and other means.

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E. **View Corridors.** Where commercial, industrial, mixed use, multi-family and/or multi-lot developments are proposed, primary structures shall provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation. Per WAC 173-27-180, applicants shall provide a depiction of the impacts to views from existing residential uses and public areas. (WAC 173-26- 221(4)(d)(iv))

F. **Lighting.** Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas, critical area buffers or roadways to avoid infringing on the use and enjoyment of such areas, adversely impacting wildlife (including breeding and migration) and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. (WAC 173-26-211(4)(a)(iv)

5.2 General Aquatic Shoreline Modification and Use Regulations

These policies and regulations apply to all modifications and uses taking place waterward of the OHWM, whether or not a shoreline permit or written statement of exemption is required.

5.2.1 Policies

A. **Protect beneficial uses, including ecological functions and water-dependent uses.** Shoreline modifications and uses should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Modifications should not be permitted where it would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.

B. **Minimize and mitigate unavoidable impacts.** All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and then mitigated.

C. **Protect water quality and hydrograph.** Shoreline modifications and uses should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions, including the disturbance of recharge and discharge points of groundwater.

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5.2.2 Regulations

The following regulations shall apply to in-water work, including, but not limited to, installation of new structures, repair of existing structures, restoration projects, and aquatic vegetation removal:

A. **Siting and design requirements.** In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species. Modifications and uses located in the Aquatic environment shall be the minimum size necessary.

B. **Buffers do not apply.** Water-dependent in-water structures, activities and uses are not subject to the shoreline buffers established in this SMP. However, approval is required to remove or modify any LWD recruited from or partially laying within a buffer area.

C. **Obtain all required permits.** Projects involving in-water work must obtain all applicable state and federal permits or approvals, including, but not limited to, those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources.

D. **Adhere to timing restrictions.** Projects involving in-water work shall comply with timing restrictions as set forth by state and federal project approvals.

E. **Structure removal.** Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the waterbody.

F. **Disposal of waste material.** Waste material, such as construction debris, silt, excess dirt or overburden resulting from in-water structure installation, shall be deposited outside of shoreline jurisdiction in an approved upland disposal site. Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that use of best management practices is adequate to prevent erosion and habitat or water quality degradation.

G. **Hazardous materials.** Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the waterbody during in-water activities. Necessary refueling of motorized equipment, other than watercraft, shall be done as far from the adjacent waterbody as is possible. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.

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H. **Prevent siltation of adjacent areas.** In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas. A sediment control curtain shall be deployed in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.

I. **Treatment of below-OHWM excavations.** Any trenches, depressions, or holes created below the OHWM shall be backfilled prior to inundation by high water or wave action.

J. **Concrete management.** Fresh concrete or concrete by-products, including waste water, shall not be allowed to enter the waterbody at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the waterbody.

K. **Protection of bank and vegetation.** Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be restored and protected from erosion using native vegetation or other means.

L. **Trash removal required**. All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, found below the OHWM at the time of project implementation shall be removed if the project includes use of equipment suited for that purpose. Where the trash or fill is visibly providing some habitat function, consult with the Arlington Natural Resources Manager, Washington Department of Fish and Wildlife and/or the U.S. Army Corps of Engineers before removing. Disposal should occur in an approved upland disposal location, landward of the OHWM and the channel migration zone. See Sections 5.8, Dredging and Dredge Material Disposal and 5.9, Fill for additional policies and regulations regarding dredging, fill and disposal.

M. **Notification when fish harmed.** If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification shall be made to appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

N. **Notification when water quality standards are exceeded.** If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including Ecology, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

O. **Retain natural features.** Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are causing

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significant bank erosion or higher flood stages or pose a hazard to navigation or human safety.

P. **Mitigation.** All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in Section 4.2, Ecological Protection and Critical Areas, with appropriate mitigation required for any unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of Appendix B, Shoreline Environmentally Critical Areas.

5.3 Agriculture

Agriculture is generally prohibited in shoreline jurisdiction under this SMP. The Country Charm Community Master Plan allows for continued harvest of pasture grasses and a Community Garden as allowed in the Urban Conservancy - Low Intensity designation. Native plant propagation will also be allowed within the Urban Conservancy Low Intensity designation.

5.4 Aquaculture

Aquaculture is prohibited in shoreline jurisdiction under this SMP, except for native species enhancement projects, which are an authorized use under Section 5.19, Shoreline Habitat and Natural Systems Enhancement Projects.

5.5 Boating Facilities

Boating facilities shall be subject to the policies and regulations of this section. All boating facilities that extend onto state-owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.

5.5.1 Policies

A. **Recognize that boating facilities are water-dependent uses.** Boating facilities, including public boat launches, are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location. Shorelines particularly suitable for public boat launches are limited and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.

B. **Plan and coordinate boat launches regionally.** Regional needs for boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, collocated with other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including other local governments, Tribes, adjacent counties,

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the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources, to avoid unnecessary duplication and to efficiently provide recreational resources while minimizing adverse impacts to shoreline ecological functions and processes. (consistent with principles in WAC 173-26-231(2)(b, d))

C. **Minimize in-water modifications.** Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. (consistent with principles in WAC 173-26-231(2)(b, d))

D. **Limitations on accessory uses.** Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Non-water-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.

E. **Minimize impacts to adjacent uses and users.** Boating facilities should be located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light, and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.

F. **Site facilities appropriately.** New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and neighboring uses are present. (WAC 173-26-241(3)(c)(i))

G. **No net loss of ecological functions.** Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features. (WAC 173-26-241(3)(c)(vi))

H. **Consider navigation and other recreation.** Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing.

I. **Signage.** All boating access area should provide sufficient signage displaying the regulations and ecological conditions of the waters that are being accessed.

J. **Sanitary facilities.** All boating access area should provide sanitary facilities to protect the water quality.

5.5.2 Regulations

A. **Location Standards.** (based on WAC 173-26-241(3)(c)(i, ii, iv))

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1. Boating facilities shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this SMP:

    a. wetlands with emergent vegetation (marsh type areas), wetlands with sensitive functions for rare or endangered species (bogs), Type I wetlands, Type II wetlands not historically used from navigation, or

    b. spawning and holding areas for anadromous fish.

2. New boating facilities shall not be permitted in areas of active channel migration, or areas where dredging will be required, where a flood hazard will be created, or where impacts to shoreline ecological functions and processes cannot be mitigated.

3. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.

4. New boating facilities shall not be located within 200 feet of beaches commonly used for swimming, valuable fishing areas, aquaculture facilities, or commercial navigation areas unless no alternative location exists and mitigation is provided to minimize impacts to such areas and protect the public health, safety, and welfare.

5. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.

6. Long-term boat storage located landward of the OHWM is regulated as a nonwater-oriented commercial use under Section 5.7 of this SMP.

B. **Facility Design.**

1. Consistent with requirements for mitigation sequencing in Section 4.2, Ecological Protection and Critical Areas, and provisions in Section 5.2, General Aquatic Shoreline Modification and Use Regulations of this SMP, all boating facilities shall be designed and located to avoid and minimize impacts. All unavoidable impacts must be mitigated.

2. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size and number of in-water structures, the waterward length of the facility, and

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the extent of any necessary associated shoreline stabilization or modification shall be minimized. Specific sizing of all boating facility components shall be based on the results of the analyses conducted under F.1 and F.2 below.

C. **Site Design and Operation.**

1. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous. (WAC 173-26-241(3)(c)(i, iv)

2. Boat launches shall provide physical and/or visual public access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal. Features for access could include, but are not limited to, walk-on access, fishing platforms, and viewing platforms.

3. Public or community access areas shall provide space and facilities for physical and visual access to waterbodies, including feasible types of shore recreation.

4. Accessory uses at boat launches shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may include, but is not limited to, parking, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

D. **Parking and Vehicle Access.** (WAC 173-26-241(3)(c)(i))

1. The traffic generated by such a facility must be accommodated by the streets serving the proposed facility in accordance with City adopted levels of service. It will be allowed to build access roads using minimum impact LID designs if those roads are located in a critical area.

2. At public boat launches, trailer parking spaces at least 10 feet by 40 feet shall be provided commensurate with projected demand.

3. Bicycle parking shall be provided commensurate with the anticipated demand.

E. **Waste Disposal.** (WAC 173-26-241(3)(c)(ii, vi))

1. Discharge of solid waste into a waterbody is prohibited. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.

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2. Disposal or discarding of fish-cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited.

F. **Submittal Requirements.**

1. Applicants shall provide an assessment of market demand for new or expanded boating facilities, including, but not limited to, the following: (consistent with WAC 173-26-231(2)(b))

    a. The proposed supply, as compared to the existing supply, within the service range of the proposed facility

    b. The expected service population and boat ownership characteristics of the population and allowed use in the water body; and

    c. Existing approved facilities, or pending applications, within the service area of the proposed new facility.

2. Applicants for new or expanded boating facilities shall provide habitat surveys, critical area studies, and mitigation plans as required by the City consistent with Section 4.2, Ecological Protection and Critical Areas, and Appendix B, Shoreline Environmentally Critical Areas, as applicable. The mitigation plan shall discuss how the proposed project avoids and minimizes impacts consistent with the facility's sizing needs, which are to be based on the results of any habitat survey/critical area study and the market demand analysis prepared under F.1 above. A slope bathymetry map may be required when deemed beneficial by the Shoreline Administrator for the review of the project proposal.

3. Applicants for new or expanded boating facilities shall provide an assessment of existing water-dependent uses in the vicinity, including, but not limited to, navigation, fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, and scientific assessment, and document potential impacts and mitigating measures. The City will assist the applicant in identification of area water-dependent uses. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.

4. New boat launches shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launches at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand. (consistent with WAC 173-26-231(2)(b))

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5.6 Breakwaters, Jetties, Groins, Weirs

Breakwaters, jetties, groins, and weirs are prohibited in shoreline jurisdiction under this SMP, except as a primary and necessary component of a habitat restoration project.

5.7 Clearing and Grading in Shoreline Areas

5.7.1 Policies

A. All clearing and grading activities should be designed and conducted to minimize impacts to wildlife habitat, sedimentation of water bodies, and degradation of water quality.

B. Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development. Such activities should be discouraged in designated (structural) setback areas and allowed in other shoreline locations only when associated with a permitted shoreline development.

C. Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.

D. Cleared and disturbed sites remaining after completion of construction should be promptly replanted with native vegetation or with other species as approved by the City.

E. All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.

F. For proposed land clearing, landfill, or grading activities over fifty (50) cubic yards in quantity, or a cut of three (3) feet in depth or more, or a fill of two (2) feet in depth or more, a clearing and grading plan addressing species removal, replanting, irrigation, erosion and sedimentation control and other methods of riparian corridor protection should be required.

5.7.2 Regulations

A. All clearing and grading activities must adhere to the requirements of the City's codes pertaining to land clearing and grading. Clearing and grading below the OHWM or within wetlands requires state and federal authorizations prior to beginning work, in addition to City requirements.

B. Clearing and grading activities may only be allowed when associated with a written exemption or permitted shoreline development.

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C. Clearing and grading and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years time, the vegetation is at least ninety (90) percent reestablished.

D. More specific and stringent clearing and grading performance standards, including relevant requirements from the City of Arlington Critical Areas Regulations as contained in Appendix B, may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.

E. Normal nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations. In addition, clearing by hand-held equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations.

F. Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation or raising of dry upland shall be considered fill and shall also comply with the fill provisions in Section 5.10.

G. Alteration of the natural landscape shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below:

1. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and native vegetation is promptly reestablished in the disturbed area.

2. Modification of vegetation in association with a legal, non-conforming use or development provided that said modification is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.

3. Maintenance or restoration of viewsheds situated on public lands provided that said activity is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitat areas.

H. In all cases where clearing is followed by revegetation, native plants shall be required. Extensive lawns are prohibited within the buffer area due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.

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I. Clearing and grading within areas classified by Appendix B as environmentally sensitive areas or their buffers is prohibited unless no other feasible alternative exists and then only when the proposal complies with this SMP and all other City codes.

5.8 Commercial Development

5.8.1 Policies

A. **Commercial Use Preferences**. Preference should be given for water-dependent commercial uses above water-related uses. Water-related uses should have priority above water-enjoyment uses. All water-oriented commercial uses have preference over nonwater-oriented commercial uses. (WAC 173-26-241(3)(d))

B. **Parking.** Parking facilities should be located landward or outside shoreline jurisdiction unless supporting an authorized use.

5.8.2 Regulations

A. **Water Oriented Uses Allowed.** Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment uses. The applicant shall demonstrate to the satisfaction of the City that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use). (WAC 173-26-241(3)(d))

B. **Residential Uses as Part of Mixed Use Development.** Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:

1. The mixed-use project includes one or more water-dependent uses.

2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.

3. The underlying zoning district permits residential uses together with commercial uses.

4. Public access is provided for significant number of persons in accordance with Section 4.4.2, and/or ecological restoration is provided as a public benefit.

5. Residential uses meet requirements of Section 5.16 of this SMP.

C. **Nonwater-Oriented Commercial Uses Limited.** In areas designated for commercial use, nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or public right of way. On

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properties fronting the shoreline, new nonwater-oriented commercial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access (including viewing, such as a restaurant with a public viewing deck where allowed) and ecological restoration and meets one of the following conditions: (WAC 173-26-241(3)(d)).

1. The use is part of a mixed-use project that includes water-dependent uses; or

2. Navigability is severely limited at the proposed site.

D. **Overwater Uses.** Nonwater-dependent commercial uses shall not be located over water except in the limited instances where they are auxiliary to and necessary in support of water-dependent uses. (WAC 173-26-241(3)(d))

E. **Accessory Uses to Water-Oriented Commercial Activities**. Accessory commercial development that does not require a shoreline location shall be located landward of the water-oriented portions of the development and comply with shoreline environment buffers for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii), WAC 173-26-211(3)(b)), and WAC 173-26-241(3)(d))

F. **Environmental Protection.** Commercial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(d))

G. **Public Access.** See Section 4.4. (WAC 173-26-241(3)(d))

5.9 Dredging and Dredge Material Disposal

5.9.1 Policies (based on WAC 173-26-231(2) and (3)(f))

A. Dredging should be permitted for water-dependent uses of economic importance to the region and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this SMP.

B. Dredging of bottom materials for the primary purpose of obtaining material for landfill, construction, or beach nourishment should not be permitted.

C. Minor dredging as part of ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this SMP.

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D. Spoil disposal on land outside of shoreline jurisdiction is generally preferred over open water disposal. Disposal of dredged material on shorelands or wetlands within a river's channel migration zone should be prohibited, except when utilized as part of an approved restoration project with state and federal approvals, if required.

E. Long-term cooperative management programs that rely primarily on natural processes, and involve land owners and applicable local, State and Federal agencies and tribes should be pursued to prevent or minimize conditions which make dredging necessary.

F. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

G. Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

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

I. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized locations, depths and widths. Dredging activities should be done in a manner that would help restore desired salmonid habitat as described in the Stillaguamish Chinook Recovery Plan.

5.9.2 Regulations (based on WAC 173-26-231(2) and (3)(f))

A. **Siting and design.** New development shall be sited and designed to avoid the need for new and maintenance dredging.

B. **Allowed dredging activities.** Dredging shall only be permitted for the activities listed below. Note that for dredging activities waterward of the OHWM or within wetlands, in addition to local authorizations, state and federal authorizations must also be obtained prior to beginning work.

1. Development of new or expanded water-dependent industries of economic importance to the region only when there are no feasible alternatives or other alternatives may have a greater ecological impact and only where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.

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2. Development of essential public facilities when there are no feasible alternatives.

3. Maintenance dredging of established navigation channels and basins to maintain previously dredged and/or existing authorized location, depth, and width (An example would be restoration of South Slough to historic navigable conditions). Establishing, expanding, relocating or reconfiguring navigation channels where necessary to assure safe and efficient accommodation of existing navigational uses. Dredging for the purpose of obtaining fill material is prohibited.

4. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.

5. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat. Dredging activity to drain wetlands is prohibited.

6. Minor trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible, and:

    a. Impacts to fish and wildlife habitat are avoided to the maximum extent possible; and

    b. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration; and

    c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.

C. **Maintain ecological functions and processes.** The physical alignment and ecological functions and processes of shoreline waterbodies shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, dredging and dredge disposal proposals should be first designed to avoid and minimize impacts, prior to pursuing mitigation. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant plan requirements of the appropriate responsible government in Appendix B, Shoreline Environmentally Critical Areas.

D. **Conditions may be applied.** Limitations on dredge or disposal operation may be imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include

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limits on periods and hours of operation, type of machinery, and may require provision of landscaped buffer strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.

E. **Circumstances when disposal is allowed.** Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

1. The applicant obtains the state and federal authorizations necessary for dredging waterward of the OHWM or within wetlands prior to beginning work.

2. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater.

3. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

F. **Submittal requirements.** The following information shall be required for all dredging applications:

1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.

2. A detailed description of the existing physical character, shoreline geomorphology and biological resources provided by the area proposed to be dredged, including:

    a. A site plan map outlining the perimeter of the proposed dredge area and a detailed OHWM determination. The map must also include the existing bathymetry and have data points at a minimum of 1-foot depth increments.

    b. A habitat survey, critical areas study, fish and wildlife management plan during dredging operations, and/or mitigation plans.

    c. Information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.

3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed.

    a. Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.

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b. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.

c. Biological analysis of material to be dredged.

4. A description of the method of materials removal, including facilities for settlement and movement.

5. Dredging procedure: length of time it will take to complete dredging, method of dredging, and amount of materials removed.

6. Frequency (including an estimate of the effective life expectancy of the dredging) and quantity of project maintenance dredging.

7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:

   a. Dredge material disposal area;

   b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;

   c. Size and capacity of disposal site;

   d. Means of transportation to the disposal site;

   e. Proposed dewatering and stabilization of dredged material;

   f. Methods of controlling erosion and sedimentation including a Stormwater Pollution Prevention Plan; and

   g. Future use of the site and conformance with land use policies and regulations.

8. Total initial dredge volume.

9. Plan for disposal of maintenance spoils for at least a fifty (50)-year period, if applicable.

10. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

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5.10 Fill in Shoreline Areas

Fill regulations in this section apply to fills in aquatic, wetland, and upland environments. "Fill" is 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.

5.10.1 Policies (based on WAC 173-26-231(2) and (3)(c))

A. Fill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with clear and convincing demonstration of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged. Compensatory mitigation for unavoidable critical area and buffer impacts are required as specified in the Arlington Municipal Code.

B. Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.

C. Fill should not be allowed where shoreline stabilization work would be required to maintain the materials placed.

D. Excavation and grading may be permitted landward of the OHWM of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.

E. Fill in waterbodies, floodways, channel migration zones, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity.

F. Fill should not be placed over existing forest duff or native plant herb layer that is not in the direct footprint of the approved project.

G. Fill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build protective berms and nourish beaches for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with this SMP. In these instances the fill should include a re-vegetation plan to restore site stability.

H. The predicted economic benefits of fills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

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5.10.2 Regulations (based on WAC 173-26-231(2) and (3)(c))

A. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Fill shall be minimized to the maximum extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP.

B. Fill and excavation within floodways, channel migration zones, or waterward of the OHWM shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP.

   1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

   2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources.

   3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.

   4. Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan.

   5. Maintenance of lawfully established development.

C. Excavation that occurs either waterward of the OHWM or within wetlands shall be considered dredging for purposes of this SMP.

D. Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable.

E. Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

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F. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every three feet horizontal (1:3) unless a specific engineering analysis has been provided, and it can be determined that the fill blends physically and visually with existing topography.

G. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the stormwater management manual shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity.

5.11 Forest Practices

Commercial forest practices are prohibited in shoreline jurisdiction under this SMP.

5.12 Industry

5.12.1 Policies

A. **Industrial Use Preference.** Industries are an appropriate land use along shorelines where compatible with existing land use plans and zoning. However, first priority should be given to water-dependent industries over nonwater-dependent uses. Purely nonwater-oriented uses should be prohibited. (WAC 173-26-241(3)(f))

B. **Environmental Limitations.** Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas. (WAC 173-26-241(3)(f))

C. **Clean up and Restoration.** Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. (WAC 173-26-241(3)(f))

5.12.2 Regulations

A. **Water-Dependent or Water-Related Uses Allowed.** Industrial facilities and structures that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate to the satisfaction of the City that proposed uses are water-dependent and/or water-related. (WAC 173-26-241(3)(f))

B. **Nonwater-Oriented Industrial Uses Limited.** In areas designated for industrial use, nonwater-oriented industrial uses are allowed only if the site is physically separated from the shoreline by topography, another property or public right-of-way or railroad prior to adoption of this SMP. On properties fronting the shoreline, new nonwater-oriented industrial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's

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objectives, such as providing public access and ecological restoration, and meets one of the following conditions:

1. The use is part of a mixed-use project that includes water-dependent uses; or

2. Navigability is severely limited at the proposed site.

C. **Accessory Uses to Water-Dependent or Water-Related Industrial Activities.** Accessory industrial development that does not require a shoreline location shall be located upland of the water-dependent or water-related portions of the development and comply with shoreline environment buffers for nonwater-oriented uses. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, waste storage and treatment, and transportation corridors. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii), WAC 173-26-211(3)(b), and WAC 173-26-241(3)(f))

D. **Environmental Protection.** Industrial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(f))

E. **Public Access.** See SMP Section 4.4. (WAC 173-26-241(3)(f))

5.13 Institutional

5.13.1 Policies

A. **Institutional Uses Appropriate.** Institutional uses are an appropriate land use along shorelines where compatible with shoreline functions, public access, and existing land use plans and codes.

B. **Encouraged Institutional Resources.** Institutional uses that foster appreciation of shoreline historic, cultural, scientific, and educational resources are encouraged.

5.13.2 Regulations

A. **Accessory Uses**. Accessory uses may be allowed in structures or where necessary, if located upland of the primary use, in support of institutional uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation.

B. **Environmental Protection.** Institutional development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to preferred land uses and public access features.

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C. **Public Access.** See Section 4.4.

5.14 In-Water Structures

In-water structures include those placed by humans within streams and rivers for hydroelectric generation, irrigation, water supply, flood control, transportation, utilities, fish habitat enhancement, recreation, or other purpose. Structures placed waterward of the OHWM have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow, as well as to create navigation or flood hazards.

5.14.1 Policies

A. In-water structures should be planned and designed to be compatible with appropriate multiple uses of resources over the long-term, especially in Shorelines of Statewide Significance. Appropriate multiple uses include, but are not limited to, public access, recreation, and fish migration.

B. The location, design, construction and maintenance of in-water structures should give due consideration to the full range of public interests; watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and ecological functions, with special emphasis on protecting and restoring priority habitats and species.

C. In-water structures shall be sited and designed consistent with appropriate engineering principles, including, but not limited to, guidelines of the Washington Department of Fish and Wildlife, Natural Resources Conservation Service, and the U.S. Army Corps of Engineers.

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

E. Planning and design of in-water structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.

F. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, channel migration zone, or floodway should not be allowed.

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G. In-water structure proposals should incorporate native vegetation to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features include vegetated berms; vegetative stabilization including brush matting and buffer strips; and retention of existing trees and shrubs on stream banks, if possible.

5.14.2 Regulations

A. Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.

B. Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.

C. In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City shall require reasonable conditions to achieve this objective.

D. No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used as in-water structures.

E. Natural in water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are causing severe bank erosion or higher flood stages or pose a hazard to navigation or human safety.

F. In-water structures shall allow for natural groundwater movement and surface runoff.

G. In-water structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels.

H. In-water structures shall be designed by a qualified professional.

I. Construction of in-water structures may not commence without having obtained all applicable Federal, State, and local permits and approvals, including, but not limited to, an HPA from Washington Department of Fish and Wildlife.

J. Design of in-water structures shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a

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minimum, in-water structures should not decrease public access or use potential of shorelines.

K. In-water structures shall be designed to minimize safety hazards and prevent the creation of obstructions to water navigation.

5.15 Mining

Mining (mineral extraction) is prohibited in shoreline jurisdiction under this SMP.

5.16 Moorage Facilities

Moorage facilities used to secure a boat or a vessel, including piers, docks, piles, lift stations, and buoys are not practical and pose risk to public safety and are thereby prohibited in shoreline jurisdiction under this SMP.

5.17 Recreational Development

5.17.1 Policies

A. **Promote Recreation and Public Access.** Developments and uses should be designed and operated to provide the public with recreational areas, facilities, and access to the shorelines.

B. **Pedestrian-Oriented.** Direct access to the water should be via paths, walkways, or other pedestrian-oriented features. Vehicular traffic on beaches and fragile shorelines should be prohibited. Parking should be located upland from the shoreline recognizing the limited supply of shoreline areas. (1975 SMP Policy 17.c)

C. **Grounds Management.** The use of additives to maintain recreational facilities such as playfields should be closely monitored to prevent contamination of adjacent waterbodies and their riparian areas.

D. **Prevent Impacts to Private Property.** The location, design, construction and operation of recreational facilities should prevent undue adverse impacts on adjacent or nearby private properties.

E. **Scenic Views and Vistas.** Preserve views for the public when siting park and recreation facilities. (based on City of Arlington Comprehensive Plan, PP-5.4).

5.17.2 Regulations

A. **Design.** Recreational uses and facilities shall be designed to be primarily related to access, enjoyment and use of the water and shorelines of the state. (WAC 173-26-241(3)(i))

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B. **Use Consistency.** Proposed recreation uses shall be designed, located and operated consistent with the purpose and intensity of the shoreline use environment and environmental conditions. (WAC 173-26-241(3)(i))

C. **Accessory Uses.** Accessory and support facilities such as maintenance facilities and parking lots shall be consolidated and located in upland areas outside shoreline, wetland and riparian buffers to the extent feasible. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii) ,WAC 173-26-211(3)(b), and WAC 173-26-241(3)(i))

D. **Public Access.** Where recreation facilities for public access include overwater structures, such as public view or fishing platforms, those overwater structures should comply with relevant requirements of SMP Section 4.4 (WAC 173-26-241(3)(i))

E. **Fertilizer and Chemical Management.** For recreation developments such as playfields that require the use of fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these fertilizer and chemical applications and resultant leachate from entering adjacent waterbodies. Non-chemical management methods are preferred over chemical management where feasible and practical.

F. **Compatibility with Adjacent Private Properties.** Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties. (WAC 173-26-221(4)(b))

G. **Adequate Utilities and Services.** Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal in conformance with City standards.

H. **Environmental Protection.** Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions. (WAC 173-26-241(3)(i))

5.18 Residential Development

5.18.1 Policies

A. **Compatibility with Shoreline.** All subdivisions and residential development should be designed at a level of site coverage and density compatible with the physical capabilities of the shoreline and water in order to minimize probabilities of damage to life, property and the environment. (1975 SMP Policy 5a)

B. **Encourage Restoration and Environmental Design.** Ecological restoration and measures to minimize environmental impacts, such as low impact development and vegetation conservation and enhancement, should be encouraged. (based on

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principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)

C. **Aesthetics.** All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities.

D. **Provide Public Access.** Residential developments should provide public access to shorelines within the development and to minimize impacts of vehicular use and parking upon shoreline aesthetics.

E. **Scenic Views.** Residential development should be designed to avoid impacts to scenic views and vistas.

5.18.2 Regulations

A. **Subdivisions and Plats.** Subdivisions and plats shall: (WAC 173-26-241(3)(j))

1. Comply with all applicable subdivision and zoning regulations.

2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities and other support facilities in conformance with City standards and which do not result in harmful effects on the shoreline or waters. See Section 4.6.2.D for specific wastewater requirements.

3. Be designed to prevent the need for new shoreline stabilization or flood hazard reduction measures per Section 4.3.

4. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results at full build-out of all lots and throughout all phases of development.

5. Cluster residential units and structures where necessary and when allowed by the City to avoid critical areas and their buffers, and to preserve natural features and minimize physical impacts.

6. Provide for public/community access, and conservation and utility easements, where required.

B. **Environmental Protection.** Residential development including accessory uses and appurtenant structures shall: (WAC 173-26-241(3)(j))

1. Meet all applicable critical area, vegetation conservation, and water quality standards of Chapter 4, Appendix B, and other Vegetation Conservation sections of this SMP.

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2. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls, retaining walls, and other stabilization structures, are not required to protect such structures and uses. To accomplish this, the City shall apply buffers established in Appendix B, may apply greater buffers, and shall apply applicable Vegetation Conservation sections in Sections 9.5 to 14.5.

3. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

C. Public Access. See SMP Section 4.4.2. (WAC 173-26-241(3)(j))

D. Accessory Uses. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in Vegetation Conservation standards and Appendix B. Residential accessory uses shall be prohibited over the water unless clearly water-dependent.. (based on WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))

E. Underground Utilities. See Section 5.20.

5.19 Shoreline Habitat and Natural Systems Enhancement Projects

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

5.19.1 Policies (based on WAC 173-26-231(3)(g))

A. Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

B. Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

C. The City should, and private entities are encouraged to, seek funding from state, federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.

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D. The City should develop processing guidelines that will streamline the review of restoration-only projects.

E. Restoration and enhancement projects should be coordinated with local Tribes, volunteer groups and conservation districts.

F. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife, and plants.

5.19.2 Regulations (based on WAC 173-26-231(3)(g))

A. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.

B. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

C. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.

D. Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no undesired change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.

E. Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.

F. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

G. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.

H. Applicant's seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project allows relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

5.20 Shoreline Stabilization

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood,

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wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include shoreline buffers or setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

5.20.1 Policies

A. Shoreline stabilization should be located, designed, and maintained to protect, restore and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines. When stabilization is necessary, mitigation for the loss of ecological function will be required. Alternative methods (such as "log jams") that can provide stabilization as well as fish habitat should be included in project alternatives.

B. Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

    1. No action (allow the shoreline to retreat naturally), increase buffers, and relocate structures.

    2. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, flood fencing or vegetative stabilization.

    3. Rigid works constructed of artificial materials such as riprap or concrete.

C. Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

D. New or expanded structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure, including residences, that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.

E. New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non-

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structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives.

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

G. Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state, nor with other appropriate shoreline uses including, but not limited to, navigation or private recreation.

H. In addition to conformance with the regulations in this section, non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.

I. Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies, particularly those that cross jurisdictional boundaries, to address ecological and geo-hydraulic processes, sediment conveyance, and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established by the multiple affected property owners.

J. 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. Shore stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.

K. Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, ability to provide fish and wildlife habitat, and flexibility for future uses.

L. New development that would require shoreline stabilization which causes or may cause significant impacts to adjacent or down-current properties and shoreline areas should be prohibited.

5.20.2 Regulations

A. **General.** The purpose of this section is to provide standards and guidelines for the location and design of hard structural and soft structural shoreline stabilization measures that have the potential to adversely impact the shoreline natural

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environment. New development, however, shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. In all cases, the feasibility of soft structural shoreline stabilization shall be evaluated prior to hard structural stabilization. Shoreline stabilization shall be designed so that net loss of ecological functions does not occur. (WAC 173-26-231(3)(a)(iii)(A)). If applicable, state and federal authorization is required for excavation or filling waterward of the OHWM or within wetlands prior to beginning work.

B. **New or enlarged structural shoreline stabilization.** New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts. Enlargement of an existing structural shoreline stabilization shall include additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures and these enlargements shall be considered new structures. New or enlarged structural stabilization measures shall not be allowed, except as follows:

1. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization. (WAC 173-26-231(3)(a)(iii)(B)(I))

2. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

    a. The erosion is not being caused by upland conditions, such as drainage and/or the loss of vegetation.

    b. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.

    c. The need to protect primary structures from eminent damage due to erosion within three (3) years is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves. (WAC 173-26-231(3)(a)(iii)(B)(II))

3. In support of water-dependent development when all of the conditions below apply:

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a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.

b. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or not sufficient to adequately address erosion causes or impacts.

c. The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical report. (WAC 173-26-231(3)(a)(iii)(B)(III))

4. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts. (WAC 173-26-231(3)(a)(iii)(B)(IV))

C. **Repair of existing shoreline stabilization measures.** This section allows repair and maintenance of existing shoreline stabilization measures, subject to all of the following standards. [Note: repair and replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP.]

1. Maintenance and repair shall include modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure.

2. Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, and are not a repair.

3. Replacement of greater than 50 percent of linear length of existing shoreline stabilization on a waterfront parcel cumulatively over 3 years is not considered a repair for purposes of these regulations, and must be designed and reviewed as a replacement subject to the provisions contained in Subsection 5.18.2.D.2 below. For shoreline stabilization projects, "replacement" occurs when the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials. Repairs that involve only removal of material above the footing or bottom course of rock are not considered replacements. Replacement of existing shoreline stabilization may still qualify for an exemption from a Shoreline Substantial Development Permit as listed in

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Section 7.6.3 of this SMP. Further limitations on non-conforming shoreline stabilization are located in the Nonconforming Uses and Development Standards section of this Master Program.

4. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

5. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, and is not maintenance or repair.

D. **Replacement.** The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures:

1. For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall also be considered new structures. (WAC 173-26-231(3)(a)(iii)(C))

2. Replacement shall be treated as a new shoreline stabilization measure subject to the restrictions of Subsection 5.18.2.B. above, as well as the submittal requirements of Subsection 5.18.2.E. below, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM. (WAC 173-26-231(3)(a)(iii)(C))

3. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure. (WAC 173-26-231(3)(a)(iii)(C))

4. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids. (WAC 173-26-231(3)(a)(iii)(C)).

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E. **General Design Standards.** When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards shall be incorporated into the stabilization design:

1. Soft structural shoreline stabilization measures shall be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures, limiting hard structural shoreline stabilization measures to the portion or portions of the site where necessary to protect or support existing shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties. Hard structural shoreline stabilization transition areas between the applicant's otherwise soft shoreline measure and the adjacent hardened shoreline, when needed on the subject property to prevent destabilization of adjacent hardened shorelines, should be minimized and extend into the subject property from the property line no more than 10 feet.

2. For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:

    a. Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM to the maximum extent practicable.

    b. Where a, above, is not practicable because of overriding safety or environmental concerns, conduct necessary excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization.

3. All approved new, enlarged, repair, or replacement shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Shoreline Environmentally Critical Areas. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.

4. All new, enlarged, or replacement hard structural shoreline stabilization measures should minimize any long-term adverse impacts to ecological functions by incorporating the following measures into the design:

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a. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.

b. Shifting the hard structural shoreline stabilization landward and/or sloping the hard structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.

c. Fish habitat components.

5. Approved new and enlarged shoreline stabilization measures shall mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:

   a. Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a 2-year flood event on rivers.

   b. Plant native riparian vegetation, as necessary, along the shoreline frontage affected by the new or enlarged stabilization, along the water's edge. The vegetated portion of the shoreline buffer shall be approved by the Arlington Natural Resource Manager, or meet the minimum requirements of the Critical Areas section of the Arlington Land Use Code.

   c. Additional mitigation measures may be required by the City, or State or Federal agencies, depending on the level of impact.

6. The shoreline stabilization measure shall be designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.

7. The shoreline stabilization measure shall be designed so as not to constitute a hazard to navigation.

8. Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but shall not extend waterward of the shoreline stabilization measure and the OHWM.

9. The shoreline stabilization measure shall be designed to ensure that it does not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions

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for safe access to the water shall be incorporated into the shoreline stabilization structure design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.

10. Shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

11. When repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, any buffers from the OHWM or lot area for the purposes of calculating lot coverage shall be measured from the pre-modification location. The pre-modification OHWM shall be recorded in a form approved by the City and recorded with Snohomish County. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is only eligible for relief under this section if the project is implementing as described a project identified in a local watershed recovery plan. Relief under this section would not be granted for mitigation required as a result of a violation.

12. If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan shall not be approved until the applicant submits a copy of a statement signed by the property owners of all affected properties, in a form approved by the City and recorded with Snohomish County, consenting to the shoreline jurisdiction creation and/or increase on such property.

F. **Specific Hard Structural Shoreline Stabilization Design Standards**. In those limited instances when hard structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary as outlined in H.1 below, the following standards shall be incorporated into the design:

1. In those limited cases when hard structural shoreline stabilization is approved on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization shall tie in with the existing contours of the adjoining properties,

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as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.

2. When hard structural shoreline stabilization is approved on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization shall be placed landward of the existing OHWM such that no net intrusion into the waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet.

3. Fill behind hard structural shoreline stabilization shall be limited to one (1) cubic yard per running foot of stabilization. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit.

4. All structures should include fish habitat elements.

G. **Specific Soft Structural Shoreline Stabilization Design Standards**. In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards shall be incorporated into the design:

1. The soft shoreline stabilization design shall provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line. Projects that include necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per H. below, only near the property lines to tie in with adjacent properties shall be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet. The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and shall not extend onto the adjacent property.

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2. The soft shoreline stabilization design shall size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a 2-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.

H. **Submittal Requirements**. In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

1. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with an engineering degree. The report shall include the following:

   a. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that an existing structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures (WAC 173-26-231(3)(a)(iii)(D)).

   b. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM (WAC 173-26-231(3)(a)(iii)(B)(I)), and documentation of the OHWM field determination.

   c. An assessment of alternative measures to shoreline stabilization, including:

      (1) Placing the development farther from the OHWM.

      (2) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.

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(3) Placing of "log jam" structures in the channel to pull the erosive force away from the eroding bank.

d. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. (WAC 173-26-231(3)(a)(iii)(E))

e. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

2. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following: (WAC 173-26-231(3)(a)(iii)(C))

a. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

b. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

c. An assessment of alternative measures to shoreline stabilization, including:

(1) Relocating the development farther from the OHWM.

(2) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.

d. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.

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e. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

3. A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

4. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

   a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

   b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:

      (1) Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves;

      (2) Allow safe passage and migration of fish and wildlife; and

      (3) Minimize or eliminate juvenile salmon predator habitat.

   c. For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program to include the following:

      (1) Goals and objectives of the shoreline stabilization plan;

      (2) Success criteria by which the implemented plan will be assessed;

      (3) A Ten (10) year maintenance and monitoring plan, consisting of site visits done in years 1, 2, 5, 7 and 10 by a qualified professional, with progress reports submitted to the Shoreline Administrator and all other agencies with jurisdiction following the site visits ; and

      (4) A contingency plan in case of failure.

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5.21 Signage

5.21.1 Policies

A. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.

B. Signs should not block or otherwise interfere with visual access to the water or shorelands.

5.21.2 Regulations

A. Sign Size, Location, and Lighting Standards:

1. Prohibited Signs: The following types of signs are prohibited:

    a. Off-premises detached outdoor advertising signs.

    b. Commercial signs for products, services, or facilities located off-site.

    c. Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character. Highway and railroad signs are exceptions, as are pennants, banners, and other devices of seasonal, holiday, or special event character which may be utilized on a temporary basis based on City standards.

    d. Signs placed on trees or other natural features, unless the City's Shoreline Administrator finds that these signs are necessary for public safety reasons.

2. Allowable Signs: The following types of signs may be allowed in all shoreline environments:

    a. Water navigational signs, and highway and railroad signs necessary for operation, safety and direction.

    b. Public information signs directly relating to a shoreline use or activity. Public information signs shall include public park signs, educational kiosks, public access identification signs, critical area buffer signs, and warning signs.

    c. Off-premise, free-standing signs for community identification, information, or directional purposes.

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d. National, site, and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

e. Temporary directional signs to public or quasi-public events if removed within 10 days following the event.

f. Other temporary signs meeting sign code requirements such as "for sale" or "for lease" signs, or political campaign signs if approved in writing by the City Shoreline Administrator, provided such signs are removed when the temporary activity has been completed.

3. All signs shall be located and designed to avoid interference with vistas, viewpoints, and visual access to the shoreline. No signs shall be placed in a required view corridor.

4. Over-water signs, signs on floats or pilings, and signs for goods, services, or businesses not located directly on the site proposed for a sign are prohibited.

5. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare to critical areas or when viewed from surrounding properties or watercourses.

6. Signs shall meet the applicable size standards adopted in the Arlington sign code.

7. Temporary or obsolete signs shall be removed within 10 days of elections, closures of business, or termination of any other function. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, construction signs, and signs advertising a sale or promotional event.

8. Signs that do not meet the policies and regulations of this section shall be removed or shall conform within two years of the adoption of this SMP.

9. The maximum area of individual sign faces shall be consistent with City standards.

10. Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided that they are the minimum necessary to achieve the intended purpose. Signs required by law include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.

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11. Freestanding signs authorized by this SMP are subject to the shoreline and critical area buffers and vegetation conservation standards in Section 4.5 and Appendix B. Building mounted signs are subject to shoreline buffers and other setbacks applicable to buildings. Height of wall signs shall be measured in accordance with applicable City standards.

5.22 Transportation and Parking

5.22.1 Policies

A. **Circulation.** Public agencies and developments should provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities, consistent with federal, state, or local standards and sufficient to meet adopted levels of service. (WAC 173-26-241(3)(k) and Growth Management Act RCW 36.70A.070)

B. **Essential Public Facilities.** Comprehensive plans, which include SMPs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140,

C. **Minimize Land Consumption.** When transportation facilities must be located along shorelines efforts should be made to minimize the amount of land consumed. Where feasible, such transportation facilities should be sufficiently set back so that a usable shoreline area remains. Where feasible, roads and trails should not run parallel to shorelines.

D. **Erosion and Groundwater.** Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater.

E. **Protect Shorelands.** All construction should be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, and other factors detrimental to the environment. Transportation facilities and parking facilities should be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

F. **General Maintenance and Reconstruction.** Road maintenance and reconstruction should be allowed in accordance with best management practices adopted by the City and the State of Washington Department of Transportation.

G. **Trails.** Multi-purpose trails should be encouraged in shoreline jurisdiction consistent with public access policies and regulations in Section 4.4.

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H. **Appropriate Bridges and Culverts.** Road design for stream crossings should consider appropriate bridge and culvert designs based on federal, state, or local standards, for example, Washington Department of Fish and Wildlife's 2003 Design of Road Culverts for Fish Passage.

I. **Coordinate Land Use and Transportation.** Since land use and transportation facilities are so highly interrelated, the plans for each should be closely coordinated and consider shoreline goals, objectives, policies, and standards.

J. **Parking.** Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking facilities should be located as far inland as possible from the OHWM.

5.22.2 Regulations

A. **Roads and Railroads Limited in Shoreline Jurisdiction.** Where other options are available and feasible, new roads, road expansions or railroads shall not be built within shoreline jurisdiction. (WAC 173-26-241(3)(k))

B. **Criteria if Roads or Railroads are Unavoidable.** When roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following: (WAC 173-26-241(3)(k))

1. minimize possible adverse effects on unique or fragile shoreline features;

2. maintain no-net-loss of shoreline ecological functions and implement mitigation standards of Section 4.2, Ecological Protection and Critical Areas and Section 4.5, Vegetation Conservation and Shoreline Buffers;

3. avoid adverse impacts on existing or planned water-dependent uses; and

C. **Shoreline Crossings.** Shoreline crossings and culverts shall be designed to minimize impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.

D. **Floodway.** See Section 4.3.

E. **Construction Standards.** Construction standards of the appropriate governmental agency, together with SMP standards, shall be conditions for granting shoreline permits. Seasonal work windows may be required based on federal or state requirements, or if the proposal involves crossing shorelines or altering the waterbody. (1975 SMP Section26(c))

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F. **Trails.** See public access standards in Section 4.4.

G. **Parking Facilities.** Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Parking that does not require a shoreline location in order to carry out its functions shall: (WAC 173-26-241(3)(k))

1. be sited outside of shoreline jurisdiction unless no feasible alternative location exists outside of the shoreline;

2. be planted or landscaped with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas and to provide some level of habitat function desired in shoreline areas;

3. observe critical area and shoreline buffers, mitigating for unavoidable impacts; and

4. be designed to incorporate low-impact development practices, such as pervious surfaces and rain gardens, to the extent feasible.

5.23 Utilities

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

5.23.1 Policies

A. Avoid placing utilities within shoreline jurisdiction unless absolutely necessary. (based on City of Arlington Comprehensive Plan, PS-3.2)

5.23.2 Regulations

A. **Design Considerations.** Utility systems are permitted provided such systems: (WAC 173-26-241(3)(l))

1. avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint; and

2. do not alter processes affecting shoreline and critical area functions, including, but not limited to, important habitat functions, the rate of channel migration, river and wetland hydrology, or shoreline erosion and accretion.

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B. **Preference to Existing Footprints.** Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems. (WAC 173-26-241(3)(l))

C. **Underwater Utilities.** If an underwater location is necessary, the design, installation and operation shall minimize impacts to the wetland, waterway or the resident aquatic ecosystems. Seasonal work windows may be made a condition of approval. Standards of Section 5.8.2, Dredging and Dredge Material Disposal; Section 4.2, Ecological Protection and Critical Areas; Section 4.5, Vegetation Conservation and Shoreline Buffers (for any aquatic vegetation impacts); and Section 5.2, General Aquatic Shoreline Modification and Use Regulations must be met.

1. **Nonwater-Oriented Processing and Production Facilities**. Nonwater oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

2. **Horizontal Boring Preferred**. Where necessary for utility installation, horizontal directional drilling (boring) is preferred.

3. **No Net Loss of Ecological Function.** All utility system projects and maintenance shall be designed, located and installed in a manner which results in no-net-loss of ecological function.

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6 NONCONFORMING USES AND DEVELOPMENT STANDARDS

6.1 Nonconforming Structures, Uses, Lots: Policies

The following policies on nonconforming structures, uses, and lots are intended to guide the application of City standards:

A. Nonconforming existing legal uses and structures may continue according to City standards and are herein referred to as "grandfathered" uses or structures.

B. Transitions from nonconforming uses to conforming uses should be encouraged.

C. Owners of grandfathered structures that wish to expand the structure may be able to do so if they do not increase the nonconformity according to City standards.

D. The SMP no-net-loss of ecological function objective should guide review of proposed expansions or other changes to grandfathered uses and new development on nonconforming vacant lots. This objective will be applied on a project-by-project basis but may be addressed through mitigation planning in a shoreline reach wide manner consistent with the SMP cumulative impacts analysis.

E. The City should consider historic character of the community and conformity to SMP rules when considering changes to nonconforming uses, structures, and lots.

6.2 Nonconforming Structures, Uses, Lots: Standards

6.2.1 Nonconforming Uses, Lots, and Structures: General Provisions

A. Section 6.2 is not intended to encourage the continuance of nonconforming uses.

B. Uses, lots, and structures rendered nonconforming by the adoption of the SMP may be continued and maintained in reasonable repair, subject to the conditions of Section 6.2.

C. No use of any structure or premises shall hereafter be commenced, and no structure or part of a structure shall be erected, moved, reconstructed, extended, enlarged, remodeled, repaired, or altered, except in conformity with all current City of Arlington development regulations including this SMP.

D. For the purpose of Section 6.2, remodeling, alterations, or repairs to a nonconforming structure means work that does not exceed fifty percent (50%) of the latest County assessed or appraised value by a state certified/licensed real estate appraiser of the building or structure before the improvements are started.

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6.2.2 Nonconforming Lots of Record

A. In any shoreline environment designation except Aquatic, any stated permitted use or structure and accessory use may be erected on a preexisting legal lot of record which does not meet the minimum lot size or width requirements of the shoreline environment designation in which it is located through authorization of a shoreline variance.

6.2.3 Discontinuance of Nonconforming Use

A. If a nonconforming use has been discontinued or vacated for a period of six consecutive months or greater, the nonconforming status is terminated, and any future use of the land or structures shall be in conformity with the provisions of the SMP.

6.2.4 Destruction and Restoration

A. If a nonconforming structure/use is damaged or destroyed by accident, act of nature, or public enemy, it may be permitted to be rebuilt equal to the square footage, and within the same footprint of the damaged or destroyed structures(s), and for the same use, provided that the proposal is in accordance with all other applicable sections of the Arlington Land Use Code.

B. The structure may be rebuilt in the same location or at a different location on the site if the new structure meets the current minimum shoreline buffer distance at that different location.

C. A building permit application must be submitted to the City of Arlington department of building/fire safety and planning within one year after the structure(s) has been destroyed. If a building permit application is not submitted within one year, all future structures shall be required to be in conformity with this SMP and all current City development regulations.

6.2.5 Maintenance

A. A nonconforming structure may be physically maintained and repaired as needed to ensure public safety. All maintenance shall conform to all current development standards and building codes.

6.2.6 Expansion

A. Any expansion shall not increase the existing nonconformity impact on environmental or road conditions. No expansion shall encroach on shoreline buffers or critical areas, unless allowed by the SMP. All expansion shall conform to current City development standards and building codes.

B. Modification of a legally constructed single-family residence in a shoreline or critical area buffer shall be allowed; provided, that no new construction shall be closer to the

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OWHM or critical area as measured from the existing foundation walls. A shoreline conditional use shall be required for expansion laterally or upland of the existing foundation walls into a buffer area or to expand vertically within height limits.

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7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION

7.1 Interpretation

The SMP Administrator shall provide administrative interpretations in accordance with the Act, the Shoreline Master Program Guidelines, and with the Arlington Municipal Code.

The City shall consult with the Washington State Department of Ecology (Ecology) to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and 173-26 WAC.

7.2 Shoreline Substantial Development Permits (WAC 173-27-150)

7.2.1 Permit Required

A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 7.6.

7.2.2 Permit Review Criteria

In order for the permit to be approved, the decision maker must find that the proposal is consistent with the following criteria:

A. The proposal is consistent with the policies and procedures of the Act (RCW 90.58).

B. The proposal is consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures.

C. The proposal is consistent with this SMP.

7.2.3 Conditions of Approval

The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

7.3 Exemptions from Shoreline Substantial Development Permit Process

(Section based on WAC 173-27-040; RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515)

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7.3.1 Compliance with Applicable Regulations Required

An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the Act.

7.3.2 Interpretation of Exemptions

A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

B. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this SMP and the Act. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. The burden of proof that a development or use is exempt from the permit process is on the applicant.

D. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

E. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

7.3.3 Exemptions

Certain developments are exempt from the requirement to obtain a substantial development permit. Such developments still may require a Shoreline Variance or Conditional Use permit, and all development within the shoreline is subject to the requirements of this SMP, regardless of whether a substantial development permit is required. Developments which are exempt from requirement for a substantial development permit are identified in WAC 173-27-040 or as subsequently amended.

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7.3.4 Letters of Exemption – Required

Letters of exemption shall be issued by the City when an exemption per Section 7.6.2 applies or is required by the provisions of WAC 173-27-050.

7.4 Shoreline Conditional Use Permits (WAC 173-27-160)

7.4.1 Determinations of Conditional Use Permits

A. Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and approval, conditional approval, or denial by the Hearing Examiner of the City and by Department of Ecology.

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

C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

7.4.2 Review Criteria

A. An applicant proposing a conditional use shall demonstrate compliance with all the review criteria below or as thereafter amended in WAC 173-27-160.

1. The proposed use is consistent with the policies of RCW 90.58.020 and this SMP.

2. The proposed use does not interfere with the normal public use of public shorelines.

3. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP.

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

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

B. Applicants proposing to construct structures over 35 feet but under 50 feet in height within the Historic Shoreline Business District or the portion of the Urban Conservancy – Low Intensity environment designation adjacent to Portage Creek shall also comply with the following criteria:

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1. The building or structure does not impact views of a substantial number of residences (>50%) involved on or in an area adjoining the project area.

2. The applicant has demonstrated through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the horizontal and vertical view of the shoreline enjoyed by a substantial number (>50%) of residences or from public properties on areas adjoining such shorelines.

3. The applicant has located and oriented structures on the subject property in a manner that minimizes the potential view impact. For example, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.

4. The applicant has demonstrated extraordinary circumstances.

5. To address "overriding considerations of the public" the applicant prepared a cumulative impacts analysis that documents the public benefits served by issuance of a Conditional Use Permit.

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

D. The applicant shall prepare a cumulative impact analysis documenting other properties or uses on the same waterbody that are similarly situated and could request a similar conditional use permit. The City shall determine whether the additional potential for conditional use permits will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed use, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the conditional use and cumulative potential requests occur.

E. For requests to construct structures over 35 feet but under 50 feet in height within the Historic Shoreline Business District or the portion of the Urban Conservancy – Low Intensity environment designation adjacent to Portage Creek, the analysis shall address such considerations as cumulative view obstruction results of height adjustments (within a 1,000-foot radius) of the proposed development combined with those of other developments that exceed the 35-foot height limitation, environmental benefits (enhancement or restoration), public access/open space benefits, and economic benefits. The cumulative impact analysis shall address

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overall views that are lost, compromised, enhanced and/or retained; available view corridors; and surface water views lost, compromised, enhanced and/or retained.

7.4.3 Conditions of Approval

In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

7.5 Shoreline Variance Permits (WAC 173-27-170)

7.5.1 Purpose

The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Shoreline Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Shoreline Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.

7.5.2 Review Criteria

Shoreline Variances may be authorized provided the applicant can demonstrate compliance with the following criteria or as thereafter amended in WAC 173-27-170.

A. Shoreline Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

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

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

    2. The hardship described in B.1 of this subsection is specifically related to the property, and the hardship is the result of unique conditions such as irregular lot shape, size, or natural features and from the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions;

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3. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and the project design will not cause adverse impacts to the shoreline environment;

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

5. The variance requested is the minimum necessary to afford relief; and

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

C. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant demonstrates all of the following:

1. The strict application of the bulk, dimensional or performance standards set forth in this SMP will preclude all reasonable use of the property;

2. The proposal is consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section; and

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

D. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. The applicant shall prepare a cumulative impact analysis documenting other properties or uses on the same waterbody that are similarly situated and could request a similar variance. The City shall determine whether the additional potential for variances will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed variance request, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the variance and cumulative potential requests occur.

E. Variances from the use regulations of this SMP are prohibited.

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7.5.3 Conditions of Approval

In authorizing a variance, special conditions may be attached to the Variance permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans. Mitigation for impacts to ecological function resulting from a variance will be required

7.6 Permit Conditions

In granting, revising, or extending a shoreline permit, the City may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this SMP, as well as the supplemental authority provided in RCW 43.21C, as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or re-evaluation to assure conformance with the Act and this SMP. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded. (based on authority to attach conditions in WAC 173-27-045, 150, 160, 170 and example SMPs)

7.7 Duration/Time Requirements of Permits (WAC 173-27-090)

Time duration requirements for Shoreline Substantial Development, Shoreline Variance, and Shoreline Conditional Use Permits shall be consistent with the following provisions.

A. The time requirements of this section shall apply to all Shoreline Substantial Development Permits and to any development authorized pursuant to a Shoreline Variance or Shoreline Conditional Use Permit authorized by this Chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this SMP and this chapter, the City may adopt different time limits from those set forth in Subsections 7.10.B and C of this section as a part of action on a Shoreline Substantial Development Permit.

B. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a written request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Permit and to Ecology.

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C. Authorization to conduct development activities shall terminate five years after the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a written request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance, and to Ecology.

D. The effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance shall be the date of filing with Ecology as provided in RCW 90.58.140(6). The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. The applicant shall be responsible for informing the City of the pendency of other permit applications filed with agencies other than the City and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to the City prior to the date of the last action by the City to grant permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the City, and actions under other City development regulations, the date of the last action by the City shall be the effective date.

E. Revisions to permits under Section 7.14 may be authorized after original permit authorization has expired, provided that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

F. The City shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

7.8 Initiation of Development (WAC 173-27-190)

A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) days from the date of receipt of the decision, except as provided in RCW 90.58.140 (5)(a) and (b). The date

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of receipt for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of receipt means the date the City or applicant receives the written decision of Ecology.

B. Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the City, including a combined permit application form. Such forms will be supplied by the City.

C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

7.9 Review Process

A. The application shall be reviewed by the City in accordance with code section 20.92.

B. After a Shoreline Conditional Use or Shoreline Variance application has been approved by the City, Ecology shall review the permit and make its final decision, in accordance with WAC 173-27-200.

7.10 Appeals

7.10.1 Appeals of Shoreline Administrator Determinations and Decisions

Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Hearing Examiner by any aggrieved person. Such appeals shall be an open record hearing before the Hearing Examiner. Appeals must be submitted within fourteen (14) calendar days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

A. The decision being appealed;

B. The name and address of the appellant and his/her interest(s) in the application or proposed development;

C. The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous;

D. The specific relief sought by the appellant; and

E. The appeal fee established by the City.

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Per WAC 173-27-120 the City shall comply with special procedures for limited utility extensions and bulkheads.

7.10.2 Appeals to Shorelines Hearings Board

Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or a Shoreline Variance, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of filing the final decision by the City with Ecology. (RCW 90.58.180)

7.11 Revisions to Permits (WAC 173-27-100)

7.11.1 Revision – When Required

A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP, and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

When an applicant seeks to revise a permit, the City shall request from the applicant detailed plans and text describing the proposed changes. Proposed changes must be within the scope and intent of the original permit, otherwise a new permit may be required, pursuant to Section 7.14.2.

It is the applicant's responsibility to contact state and federal agencies for permit revisions to authorizations for work waterward of the OHWM or within wetlands prior to beginning work.

7.11.2 Determination of Scope and Intent

A. If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the Act, the City may approve a revision. "Within the scope and intent of the original permit" means all of the following:

    1. 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;

    2. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;

    3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as

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authorized under a Shoreline Variance granted as the original permit or a part thereof;

4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;

5. The use authorized pursuant to the original permit is not changed; and

6. No adverse environmental impact, including disturbance of existing vegetation or natural drainages, will be caused by the project revision.

B. If the sum of the revision and any previously approved revisions are not within the scope and intent of the original permit, the City shall require that the applicant apply for a new permit.

7.11.3 Timing of Revision Authorization

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 WAC 173-27-100 and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this SMP. 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.

7.11.4 Filing of Revision

A. The revision approval, including the revised site plans and text consistent with the provisions of Section 7.4 and 7.14 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 City shall notify parties of record of their action.

B. If the revision to the original permit involves a Shoreline Conditional Use Permit or Shoreline Variance, the City shall submit the revision to Ecology for Ecology's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the City and the applicant its final decision within fifteen (15) days of the date of Ecology's receipt of the submittal from the City. The City shall notify parties of record of Ecology's final decision.

7.11.5 Effective Date of Revised Permit

A. The revised permit is effective immediately upon final decision by the City or, when appropriate under Subsection 7.14.4 of this section, upon final action by Ecology.

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7.11.6 Appeal of Revised Permit

A. Appeals of a revised permit shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one (21) days from the date of receipt of the City's action by Ecology or, when appropriate under Subsection 6.7.3.B, the date Ecology's final decision is transmitted to the City and the applicant.

B. Appeals shall be based only upon contentions of noncompliance with the provisions of Subsection 7.14.1.

C. 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.

D. 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.

7.12 Enforcement

A. The enforcement of this SMP shall be through the procedures established by RCW 90.58.210-230 and WAC 173-287-240 through 173-27-310, as amended. The Act provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission.

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8 DEFINITIONS

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ACCESSORY. Any use or development incidental to and subordinate to a primary use of a shoreline use or development..

ACT. The Washington State Shoreline Management Act, Chapter 90.58 RCW. (WAC 173-26-020(1))

ADEQUATE. Sufficient to satisfy an adopted requirement. If the City does not have an adopted requirement, adequate means to meet a need or demand generated by the proposed shoreline development or use as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

ADVERSE IMPACT. An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment.

AGRICULTURAL ACTIVITIES. Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; and maintaining agricultural lands under production or cultivation. (WAC 173-26-020(3)(a)) See also EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.

AGRICULTURAL EQUIPMENT AND AGRICULTURAL FACILITIES. Include, but are not limited to:

A. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; 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

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D. Roadside stands and on-farm markets for marketing fruit or vegetables. (WAC 173-26-020(3)(c))

AGRICULTURAL LAND. Areas on which agricultural activities are conducted as of the date of adoption of this SMP pursuant to the State Shoreline Guidelines as evidenced by aerial photography or other documentation. After the effective date of this SMP, land converted to agricultural use is subject to compliance with the requirements herein. (WAC 173-26-020(3)(d))

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 (20) years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, poultry and poultry products, and dairy products. (WAC 173-26-020(3)(b))

ALTERATION. Any human induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

AMENDMENT. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program. (WAC 173-26-020(4))

ANADROMOUS FISH. Fish species that spend most of their lifecycle in saltwater, but return to freshwater to reproduce.

APPLICABLE. The shoreline goal, objective, policy, or standard is relevant or appropriate, or the shoreline development meets the threshold upon which a requirement is based as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

APPURTENANCE, RESIDENTIAL. Improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland and outside their corresponding required buffers. Appurtenances include: a garage; driveway; utilities; fences; yards; antennas; decks; walkways; and installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. (based on WAC 173-27-040)

AQUATIC. Pertaining to those areas waterward of the OHWM.

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AQUACULTURE. The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use, provided; that native fish enhancement efforts are not considered aquaculture but rather restoration activities.

ARCHAEOLOGICAL OBJECT means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products. (State DAHP recommendations)

ARCHAEOLOGICAL RESOURCE/SITE means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects. (State DAHP recommendations) Resource sites on maps provided by the Stillaguamish Tribe describe known use areas with a high likelihood of disturbing archaeological objects.

ARCHAEOLOGICAL. Having to do with the scientific study of material remains of past human life and activities. (State DAHP recommendations)

ARCHAEOLOGIST, PROFESSIONAL. A person who meet qualification standards promulgated by DAHP and the National Park Service and published in 36 CFR Part 61 and which define minimum education and experience required to perform identification, evaluation, registration and treatment activities for archaeological sites. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved. (Based on http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm)

ASSOCIATED WETLANDS. Wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. (WAC 173-22-030(1)) Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

AUTHORIZED USE. Any use allowed in shoreline jurisdiction either by appropriate shoreline permit or exemption.

AVERAGE GRADE LEVEL. The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: 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))

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B

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

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 nonintrusive means as applicable.

BERM. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the OHWM. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare. Also a raised planting area in wetland or stream buffers.

BEST MANAGEMENT PRACTICES. Conservation practices or systems of practices and management measures, often promulgated by state and federal agencies or the City, that:

A. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, stormwater, and sediment;

B. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;

C. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

D. Landscaping practices that do not rely on the use of herbicides, pesticides or fertilizers that can enter the shoreline environment.

BIOENGINEERING. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

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

BOATHOUSE. Any roofed and enclosed structure built onshore for storage of watercraft or float planes.

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BOATING FACILITIES. Developments and uses that support access to shoreline waters for purposes of boating, including public or commercial boat launches.

BOAT LAUNCH. Any structure used for transferring watercraft between uplands and the water. Boat launches are typically launch ramps, but may also include other mechanisms such as a hoist or crane often used at dry storage locations.

BOG. Bogs are low nutrient, acidic wetlands that have organic soils. The chemistry of bogs is such that changes to the water regime or water quality of the wetland can easily alter its ecosystem. The plants and animals that grow in bogs are specifically adapted to such conditions and do not tolerate changes well. In addition to being sensitive to disturbance, bogs are not easy to re-create through compensatory mitigation.

BUFFER, SHORELINE OR CRITICAL AREA. The area adjacent to a shoreline or critical area that separates and protects the waterbody or critical area from adverse impacts associated with adjacent land uses. It is designed and designated to remain vegetated in an undisturbed and natural condition to protect a waterbody or critical area from upland impacts. The dimensions and allowed uses within shoreline and buffers are established in Section 4.5, Vegetation Conservation and Shoreline Buffers, and Appendix B of this SMP.

BULKHEAD. A solid wall erected generally parallel to and at or near the OHWM for the purpose of protecting adjacent uplands from waves or current action.

BUOY, MOORING. An anchored float for the purpose of mooring vessels .

BUOY, NAVIGATION. An anchored float for the purpose of identifying navigational hazards or directing watercraft traffic.

C

CHANNEL MIGRATION ZONE (CMZ). The area along a river or stream within which the channel(s) can reasonably be expected 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. (WAC 173-26-020(6)) It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. The definition utilized by FEMA references where the river has migrated over the past 100-years, and may be expected to migrate over the next 100-years.

CHANNELIZATION. The straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

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CITY. The City of Arlington.

CLEARING. The destruction or removal of vegetation ground cover, shrubs and trees including, but not including root material removal, duff and/or topsoil removal.

COMMERCIAL DEVELOPMENT. Those developments whose primary use is for retail, service or other commercial business activities. Included in this definition are developments such as hotels, motels, bed and breakfast establishments, or other commercial accommodations, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, and indoor or intensive outdoor commercial recreation facilities.

COMMERCIAL USES. Commercial uses are those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities. Examples include, but are not limited to, hotels, river guide services, motels, or other commercial accommodations, grocery stores, restaurants, shops, commercial recreation facilities, and offices.

COMMUNITY ACCESS. The right of all property owners or members of a residential development to reach and use the waters of the State, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or community corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing platforms, and other community sites or facilities. Community access is not intended for the general public. (example SMPs)

CONDITIONAL USE, SHORELINE. A use, development, or substantial development which is classified as a Conditional Use or is not classified within this SMP. Those activities identified as conditional uses or not classified in this SMP must be treated according to the review criteria established in WAC 173-27-160, as amended. (WAC 173-27-030)

CONSERVATION. The prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the sustainable use of natural resources to prevent depletion or harm to the environment.

CONSERVATION EASEMENT. A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

CONTAMINANT. Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels (WAC 173-200).

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COUNTY. Snohomish County, Washington.

CRITICAL AQUIFER RECHARGE AREA. Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2). May also include those recharge areas that provide input to groundwater that provides low summer base flow maintenance to the river supporting cool water temperatures for listed salmonids.

CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in AMC 20.88.400 (see Appendix B), with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations. Local watershed plans also provide critical habitat information.

D

DAHP. The State of Washington Department of Archaeology and Historic Preservation.

DEPARTMENT OF ECOLOGY OR ECOLOGY. The Washington State Department of Ecology. (WAC 173-27-030)

DEVELOPMENT. A use consisting of the construction or exterior alteration of structures; clearing, dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)

DEVELOPMENT REGULATIONS. The controls placed on development or land uses by local government, including, but not limited to, zoning ordinances, critical areas ordinances, grading ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. (WAC 173-26-020(8))

DIKE. An artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

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DOCK. All platform structures or anchored devices in, suspended over, or floating on waterbodies to provide moorage for pleasure craft (including watercraft and float planes) or landing for water-dependent recreation including, but not limited to, piers, floats, and swim floats. Excluded are launch ramps. Docks often consist of a nearshore pier with a ramp to an offshore float. See also PIER.

DREDGING. Excavation or displacement of the bottom or shoreline of a waterbody, including wetlands.

E

ECOLOGICAL FUNCTIONS (or **SHORELINE FUNCTIONS**). The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. (WAC 173-26-020(11))

ECOLOGY. The Washington State Department of Ecology.

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(12))

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

ENHANCEMENT. Generally, the alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects. See also BEACH ENHANCEMENT/RESTORATION.

ENHANCEMENT, WETLAND. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific

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function(s) 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. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

EROSION. The wearing away of land by the action of natural forces.

EXCAVATION. The disturbance, displacement and/or disposal of unconsolidated earth material such as silt, sand, gravel, soil, wood, rock or other material from all areas landward of the OHWM or wetland.

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

EXISTING AND ONGOING AGRICULTURAL ACTIVITIES. Those activities conducted on lands defined in RCW 36.70A.030 and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that result in the filling of an area or bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a non-agricultural use, or has lain idle for more than five (5) years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition. (term used in WAC 173-26-221(3); defined based on example SMPs and Growth Management Act)

F

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)

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FEASIBLE. For the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

A. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results.

B. The action provides a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.

C. The action does not physically preclude achieving the project's primary intended use. (WAC 173-26-020(13))

In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. (WAC 173-26-020(13)) See INFEASIBLE.

FILL. The addition of soil, sand, rock, gravel, sediment, wood products, 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))

FLOATS. A detached, anchored platform that is free to rise and fall with water levels, used for boat mooring, swimming or similar recreational activities that is not anchored or accessed directly from the shoreline.

FLOOD CONTROL WORKS. Flood control works means methods or facilities designed to reduce flooding of adjacent lands, to control or divert stream flow, to retard bank erosion, or to create a reservoir.

A. Nonstructural measures include, but are not limited to, shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, storm water management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.

B. Structural measures include, but are not limited to, dikes, levees, revetments, floodwalls, channel realignment, and channel reconnection.

FLOODPLAIN. Synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded

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in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act. (WAC 173-26-020(15))

FLOODWAY. The area, as identified in this master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps, updated flood modeling, or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition, or a combination of both methods. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. (RCW 90.58.030(2)(g))

FREQUENTLY FLOODED AREA. Means an area subject to flooding, as defined by FIRM, with a one percent chance of being equaled or exceeded in any given year. Local documentation of ongoing or repetitive inundation of specific areas by urban or large river flooding may be used to augment mapping efforts.

G

GEOTECHNICAL ANALYSIS. A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes. (WAC 173-26-020(16))

GEOTECHNICAL REPORT. See GEOTECHNICAL ANALYSIS.

GRADE. See average grade level.

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GRADING. The movement or redistribution of the soil, sand, rock, gravel, sediment, root material, duff, organic soils, wood materials or other material on a site in a manner that alters the natural contour of the land. (WAC 173-26-020(17))

GRASSY SWALE. A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

GROINS. A barrier type of structure extending from the backshore or stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials.

GROUNDWATER. All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

GROWTH MANAGEMENT ACT. RCW 36.70A and 36.70B, as amended.

H

HABITAT. The place, including physical and biotic conditions, where a plant or animal usually occurs or could occur and is fundamentally linked to the actual or potential distribution and abundance of species. A species may use a habitat or a structural component of the habitat for all or part of its lifecycle, and may adapt to use various habitats. Habitat is scale-dependent and refers to a large geographic area, a species' home range, a local setting, or a site-specific feature. Habitat may perform a specific function for a species or multiple species, and may include those elements necessary for one or more species to escape extreme conditions, feed, roost, avoid predators, migrate, breed, or travel.

HARD STRUCTURAL SHORELINE STABILIZATION. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, sheet pile, groins, and similar structures.

HEIGHT. The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences. Temporary construction equipment is excluded in this calculation. (WAC 173-27-030)

HISTORIC PRESERVATION PROFESSIONAL. Individuals who meet standards promulgated by the DAHP as well as the National Park Service and published in 36 CFR

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Part 61. These standards address minimum education and experience required to perform identification, evaluation, registration and treatment activities for historic properties. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved. (Based on http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm)

HISTORIC SITE. Sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the City. (State DAHP recommendations)

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

I

IMPERVIOUS SURFACE. Those hard surfaces that prevent or retard the entry of water into the soil. Such surfaces include, but are not limited to, rooftops, asphalt or concrete paving, gravel driveways, parking lots, walkways, patio areas or storage areas, which similarly affect the natural infiltration.

INFEASIBLE. To determine that an action, such as a development project, mitigation, or preservation requirement, is infeasible, all the following findings shall be required to be made:

A. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.

B. The action does not provide a reasonable likelihood to achieve its intended purpose.

C. The action physically precludes achieving the project's primary intended use.

D. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. (WAC 173-26-020(13))

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INDUSTRIAL DEVELOPMENT. Facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and off site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

INDUSTRIAL USES. The production, processing, manufacturing, or fabrication of goods or materials, including warehousing and storage of materials or production.

INFILTRATION. The passage or movement of water into the soil surface.

INSTITUTIONAL. Those public facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational centers, water-oriented research facilities, and similar uses. These may also be called public facilities.

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

IN-WATER WORK. Work occurring waterward of the OHWM.

INVASIVE SPECIES. A species that is 1) non-native (or alien) to the City of Arlington and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

J

JURISDICTION. The shoreline jurisdiction as established in Chapter 1 of this SMP.

L

LANDSLIDE. A general term covering a wide variety of mass movement landforms and processes involving the down slope transport, under gravitational influence of soil

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and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

LARGE WOODY DEBRIS. Logs, limbs, or root wads 4 inches or larger in diameter, delivered to waterbodies from adjacent riparian or upslope areas or from upstream areas. (based on a definition in a WDFW document)

LAUNCH RAMP. An inclined slab, set of pads, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water with trailers or occasionally by hand.

LEGALLY ESTABLISHED. A use or structure in compliance with the laws and rules in effect at the time of creation of the use or structure.

LEVEE. A natural or artificial embankment on the bank of a stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

LITTORAL. Living on, or occurring on, the shore.

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

M

MAINTENANCE, NORMAL. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition. Normal maintenance shall not include an expansion of the footprint or change in materials or bulk density of the legally established condition. See also, REPAIR, NORMAL.

MARINA. A public or private water-dependent wet moorage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee e.g. yacht club, etc. Dry storage and launching facilities, either boat launch, crane or hoist, may also be provided.

MAY. Refers to actions that are acceptable at the discretion of the City, provided they conform to the provisions of this master program and the Act. (WAC 173-26-020(21))

MINERAL EXTRACTION. The removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this SMP.

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MITIGATION (or **MITIGATION SEQUENCING**). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal.

MIXED USE. A combination of uses within the same structure or site as a part of an integrated development project with functional interrelationships and coherent physical design.

MIXED USE COMMERCIAL. Developments that include water-dependent commercial uses combined with water-related, water-enjoyment uses and/or non-water-oriented commercial uses. Mixed-use developments can be a tool for water-dependent activities, civic revitalization, and public access to the shoreline.

MIXED USE RESIDENTIAL. Mixed use developments that include water-dependent and water-oriented commercial uses together with single-family or multi-family uses while promoting public access for significant numbers of the public and/or providing an ecological restoration resulting in a public benefit. This mix of uses is intended to reduce transportation trips, use land efficiently, and provide for waterfront commerce and housing options.

MODIFICATION. A change or alteration in existing materials, including structures and plans.

MODIFICATION, SHORELINE. Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals. (WAC 173-26-020(31))

MOORAGE FACILITY. Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations ,buoys and private boat launches.

MULTI-FAMILY DWELLING (or **RESIDENCE**). A structure containing two or more dwelling units, including, but not limited to, duplexes, apartments and condominiums.

MUST. A mandate; the action is required. (WAC 173-26-020(22))

N

NAVIGABLE WATERS. Navigable waters are those waters that are presently used, or have been used in the past, or may be susceptible for use to transport goods or people.

NECESSARY. A word describing an element that is essential, indispensable or needed to achieve a certain result or effect. (www.Dictionary.com)

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NO NET LOSS. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level of environmental resource productivity. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Inventory and Analysis Report (January 2011). As a development and/or mitigation standard, no net loss requires that the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

NONCONFORMING USE OR DEVELOPMENT. A shoreline use or development which was lawfully constructed or established prior to the effective date of the Act (June 1, 1971; RCW 90.58.920) or this SMP (INSERT DATE), or amendments thereto, but which does not conform to present regulations or standards of the SMP.

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

NONWATER-ORIENTED USES. Those uses that are not water-dependent, water-related, or water-enjoyment. (WAC 173-26-020(23))

NORMAL MAINTENANCE. See MAINTENANCE, NORMAL and REPAIR, NORMAL.

NORMAL PROTECTIVE BULKHEAD. Those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. (WAC 173-27-040(2)(c))

NORMAL REPAIR. See REPAIR, NORMAL and MAINTENANCE, NORMAL

NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Washington State Noxious Weed Control Board .

O

OFF-SITE REPLACEMENT. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

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OHWM. See ORDINARY HIGH WATER MARK.

ORDINARY HIGH WATER MARK (**OHWM**). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology: PROVIDED, That in any area where the OHWM cannot be found, the OHWM 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. See RCW 90.58.030(2)(c).

OVERWATER STRUCTURES. Any structure located waterward of the OHWM. Common examples include, but are not limited to, residential docks, marinas, and bridges over waterways.

P

PARKING. A place where vehicles are temporarily stored while an activity is being conducted. Local parking is located onsite intended to serve and support a primary use(s) of a property. Regional parking is a parking area intended to support a district with multiple uses. Commercial parking is a private, fee-based activity.

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

PERIODIC. Occurring at regular intervals.

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

PIER. Fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also DOCK.

PRIORITY HABITAT. A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing

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and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(24)). Priority habitats also include specific areas that have been identified in local watershed plans.

PRIORITY SPECIES. Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below. (WAC 173-26-020(25))

A. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M- 6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

B. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

C. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

D. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered (WAC).

PROVISIONS. Policies, regulations, standards, guideline criteria or designations. (WAC 173-26-020(26))

PUBLIC ACCESS. The public's right to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. (WAC 173-26-221(4) and example SMPs). See also COMMUNITY ACCESS (which is not intended for use by the general public).

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PUBLIC INTEREST. The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development. (WAC 173-27-030)

Q

QUALIFIED PROFESSIONAL. A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, and at least five years of related work experience. Specific qualified professionals must also meet the following criteria, or any other criteria included in Appendix B, Shoreline Environmentally Critical Areas:

A. A qualified professional providing a geotechnical analysis as required under this SMP must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.

B. A qualified professional providing a demonstration of need as required under this SMP must have a M.S. or equivalent degree in geology, hydrology, or geomorphology.

C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field and a minimum of five (5) years of professional experience in wetland identification and assessment in Western Washington.

D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.

E. A qualified professional for geologically hazardous areas must be an engineer or geologist licensed in the state of Washington. An engineer must be licensed as a civil engineer pursuant to Chapter 18.43 RCW, to qualify. A geologist must be a practicing geologist licensed as a professional geologist pursuant to Chapter 18.22, RCW.

F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro-geologist, geologist, or engineer.

R

RCW. Revised Code of Washington.

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RECREATION. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Most shore-based outdoor recreation such as: fishing, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

RECREATIONAL USES. Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, and other low-intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered nonwater-oriented. For example, a recreation use solely offering indoor activities would be considered nonwater-oriented.

REPAIR, NORMAL. To restore a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment. 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. See also MAINTENANCE, NORMAL.

RESIDENTIAL USES. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, manufactured homes, modular homes, and other structures that serve to house people. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, home occupations, and family day care homes.

RESTORE (**RESTORATION** or **ECOLOGICAL RESTORATION**). Reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to: the installation of vegetation or re-vegetation; removal of intrusive shoreline structures; the removal or treatment of toxic materials; the installation of large woody debris; and wetland projects. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions. (based on WAC 173-26-020(27)).

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REVETMENT. Facing of stone, concrete, etc., built to protect a steep slope, cliff, embankment, or shore structure against erosion by waves or currents.

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

RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish, avian and mammalian species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

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

S

SANITARY SEWER. A system designed to accept sewage to be deposited into and carried off by a system of lateral sewers, drains, and pipes to a common point, or points, for transfer to treatment or disposal. (based on WAC 458-20-251)

SEDIMENT. The fine grained material deposited by water or wind.

SEPA (**STATE ENVIRONMENTAL POLICY ACT**). SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, environmental impact statements (EISs) may be required to be prepared and public comments solicited. (RCW 43.21c and WAC 197-11 guide this process)

SETBACK. The distance between property line and the foundation wall of the primary structure or easement, or between the OHWM and the closest foundation wall of the primary structure.

SETBACK, **SIDE**. The distance between side lot line and the foundation wall of the primary structure.

SEWAGE: Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places. (WAC 246-272A-0010)

SHALL. A mandate; the action must be done. (WAC 173-26-020(28)) See also must.

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SHORELANDS or **SHORELAND AREAS**. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. (RCW 90.58.030(2)(f))

SHORELINE AREAS. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030. (WAC 173-26-020(29))

SHORELINE ENVIRONMENT DESIGNATIONS. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

SHORELINE FUNCTIONS. See "ECOLOGICAL FUNCTIONS."

SHORELINE JURISDICTION. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. Also, such areas within a specified local government's authority, such as the City of Arlington, under the SMA. See SHORELINES, SHORELINES OF THE STATE, shorelines of state-wide significance and wetlands. See also Section 3.1 of this SMP.

SHORELINE MASTER PROGRAM, **MASTER PROGRAM**, or **SMP**. A comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (WAC 173-26-020(30))

SHORELINE PERMIT. A substantial development, Conditional Use, revision, or variance permit or any combination thereof.

SHORELINE PROPERTY. An individual property wholly or partially within shoreline jurisdiction.

SHORELINE STABILIZATION. Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM. Other construction classified as shore stabilization may include groins, jetties, log jams and bio-engineered

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activities, which are intended to influence wave action, currents and/or the natural transport of sediments along the shoreline.

SHORELINES HEARINGS BOARD (**SHB**). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

SHORELINES OF STATEWIDE SIGNIFICANCE. A select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies apply.

SHORELINES OF THE STATE. The total of all "shorelines" and "shorelines of state-wide significance" within the state.

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

SHOULD. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this SMP, against taking the action. (WAC 173-26-020(32))

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

SIGNIFICANT ECOLOGICAL IMPACT. An effect or consequence of an action if any of the following apply:

A. The action measurably or noticeably prevents, reduces or harms an ecological function or ecosystem-wide process.

B. Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.

C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

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SIGNIFICANT VEGETATION REMOVAL. The removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal. (WAC 173-26-020(33))

SINGLE-FAMILY RESIDENCE (**SFR**). A single dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

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

SMP. See "SHORELINE MASTER PROGRAM."

SOFT STRUCTURAL SHORELINE STABILIZATION. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement.

STATE MASTER PROGRAM. The cumulative total of all shoreline master programs and amendments thereto approved, or adopted by rule, by Ecology. (WAC 173-26-020(34))

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

STORMWATER FACILITY. A constructed component of a stormwater drainage system designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, rain gardens, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

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

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humans. (WAC 220-110-020(105)) A shoreline stream is a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stockwatering channels (WAC 173-22-030(8)(b))

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

SUBDIVISION. The division or redivision of land, including short subdivision, for the purpose of sale, lease or conveyance. (based on definition of subdivision and short subdivision in RCW 58.17.020)

SUBSTANTIAL DEVELOPMENT, **SHORELINE**. Any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

A. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

B. Construction of the normal protective bulkhead common to single family residences;

C. Emergency construction necessary to protect property from damage by the elements;

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

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feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

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

F. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

G. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

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

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

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

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

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

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

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(C) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(D) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(E) The activity is not subject to the permit requirements of RCW 90.58.550;

L. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW. (RCW 90.58.030(3)(e))

SUBSTANTIALLY DEGRADE. To cause significant ecological impact. An action is considered to substantially degrade the environment if:

A. The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or

B. The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or

C. Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts. (WAC 173-26-020(35))

SURFACE WATER. All water that exists on the land surface, including streams, lakes or reservoirs, or other bodies of surface water within the boundaries of the state.

T

TERRESTRIAL. Of or relating to land as distinct from air or water.

TRANSPORTATION FACILITIES. Roads and railways, related bridges and culverts, trails, fills, embankments, causeways, truck terminals and rail switchyards, sidings, spurs, water trail landings, and air fields. Not included are highway rest areas. Local transportation refers to facilities provide direct access to abutting land and to higher order roads. Regional transportation refers to facilities serving more than one city or community or major destinations.

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UNAVOIDABLE. Adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

UPLAND. Generally described as the dry land area above and landward of the OHWM and wetlands.

UTILITIES. Lines and facilities related to the provision, distribution, collection, transmission or disposal of water, stormwater, sanitary sewage, oil, gas, power, and telephone cable, and include facilities for the generation of electricity.

A. "Large facilities" serve more than one community or major attractions; examples include, but are not limited to, two hundred thirty (230) kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors. Large facilities may also include facilities serving an entire community, such as subregional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.

B. "Small facilities" serve adjacent properties and include, but are not limited to, underground power lines, water, sanitary sewer, and storm water facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and shall be considered part of the primary use. Electrical charging or battery exchange facilities for electric vehicles.

V

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

VESSEL. A floating structure that is designed primarily for navigation, is normally capable of self propulsion and use as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency. (WAC 332-30-106)

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WAC. Washington Administrative Code.

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WASTE STORAGE AND TREATMENT. Facilities for collecting and treating, as an accessory use only, garbage, solid waste or sewage generated by the development and its users.

WATERBODY. A body of still or flowing water, fresh or marine, bounded by the OHWM.

WATER-DEPENDENT USE. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. (WAC 173-26-020(36)) Examples of water-dependent uses may include sewer outfalls and water diversion facilities, such as agricultural pumphouses.

WATER-ENJOYMENT USE. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. (WAC 173-26-020(37)) Primary water-enjoyment uses may include, but are not limited to: parks and other improvements facilitating public access to the shorelines of the State, including public viewing or fishing platforms; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant public access or restoration components), and mixed-use commercial/office.

WATERFRONT. A parcel of property with upland characteristics which includes within its boundary a physical interface with the existing shoreline of a body of water. (WAC 332-30-106)

WATER-ORIENTED USE. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. (WAC 173-26-020(38))

WATER QUALITY. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity (high and low flows), such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this master 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(39))

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WATER-RELATED USE. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. (WAC 173-26-020(40))

Examples of water-related uses may include warehousing of goods transported by water, hydroelectric generating plants, gravel storage when transported by barge, log storage, and agriculturally or people-related water transportation systems.

WATERSHED. A geographic region within which water drains into a particular river, stream or body of water.

WATERSHED RESTORATION PLAN. A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act. (WAC 173-27-040). Watershed restoration plans also include local sub-basin plans with actions that do not meet the level triggering SEPA requirements. The Stillaguamish Watershed Chinook Recovery plan provides specific guidance.

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 the plan and consists of one or more of the following activities:

D. A project that addresses ecological functions that have been identified in a locally recognized watershed plan as a limiting factor to the sustainability of a fish or wildlife species dependent on that function for survival. Projects may be of any scale or type that address ecological function over time. A project does not have to be voluntary to be considered a watershed restoration project.

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

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WETLAND or **WETLANDS**. Means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (RCW 90.58.030(2)(h))

Z

ZONING. The system of land use and development regulations and related provisions of the City of Arlington.

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

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APPENDIX A

Environment Designation Maps

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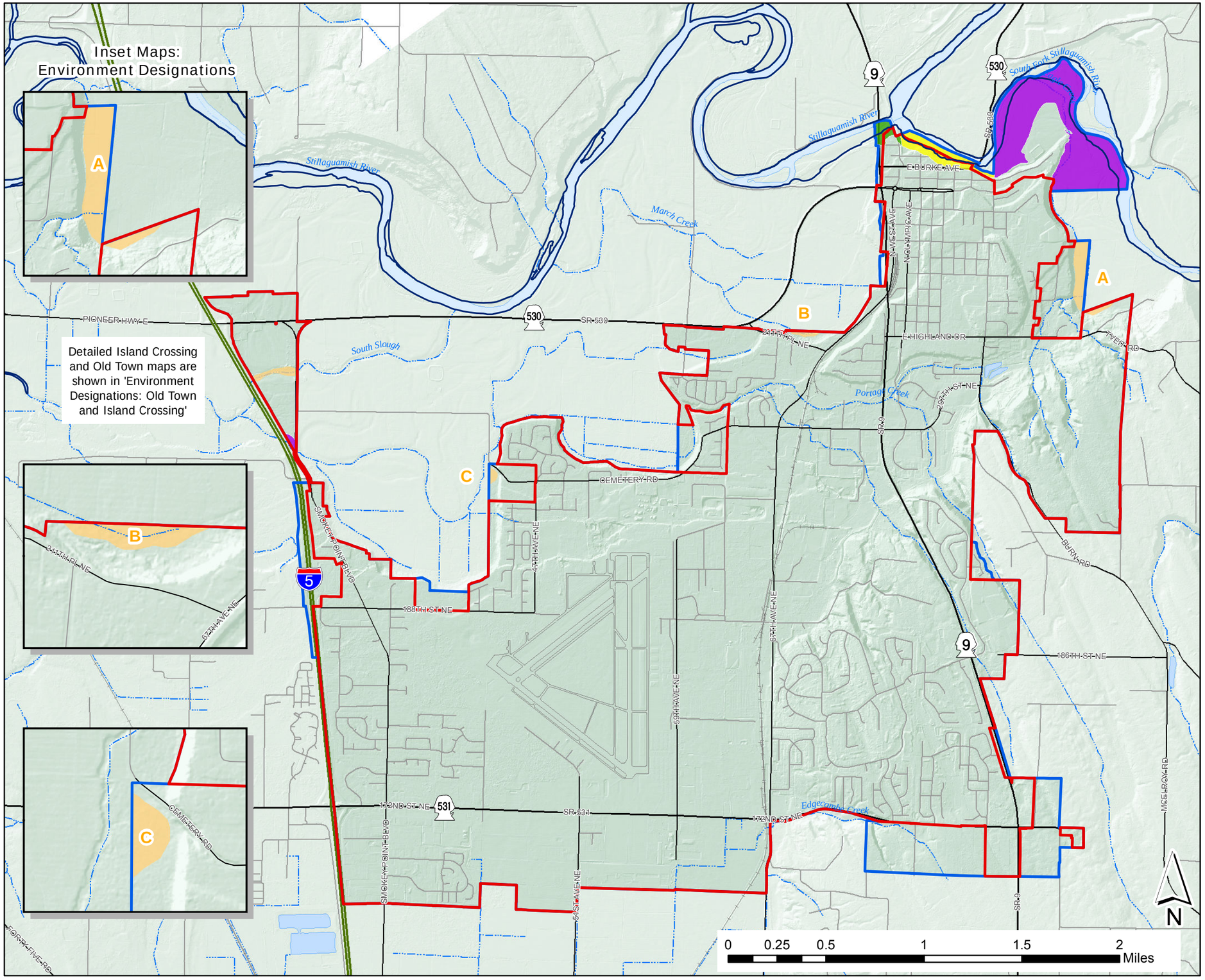

City of Arlington
Shoreline Master Plan

Environment Designations

Legend

Environment Designations

- Natural
- Historic Shoreline Business District
- Urban Conservancy - Low Intensity
- Urban Conservancy - Open Space
- Ordinary High Water Mark (OHWM)
  All areas waterward of the ordinary high water mark have an Aquatic Designation.

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- City Limits
- City UGA
- Local roads
- Airport
- Rail line
- Streams
- Rivers
- Ponds

Streams and waterbodies courtesy of Snohomish County Dept of Information Systems, June 2009.

Topography provided by Puget Sound LiDAR Consortium, downloaded summer 2009.

Date:
09/09/2011

File:
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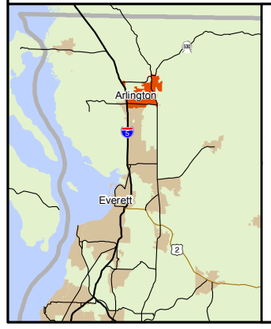
Cartographer:
kdk/th



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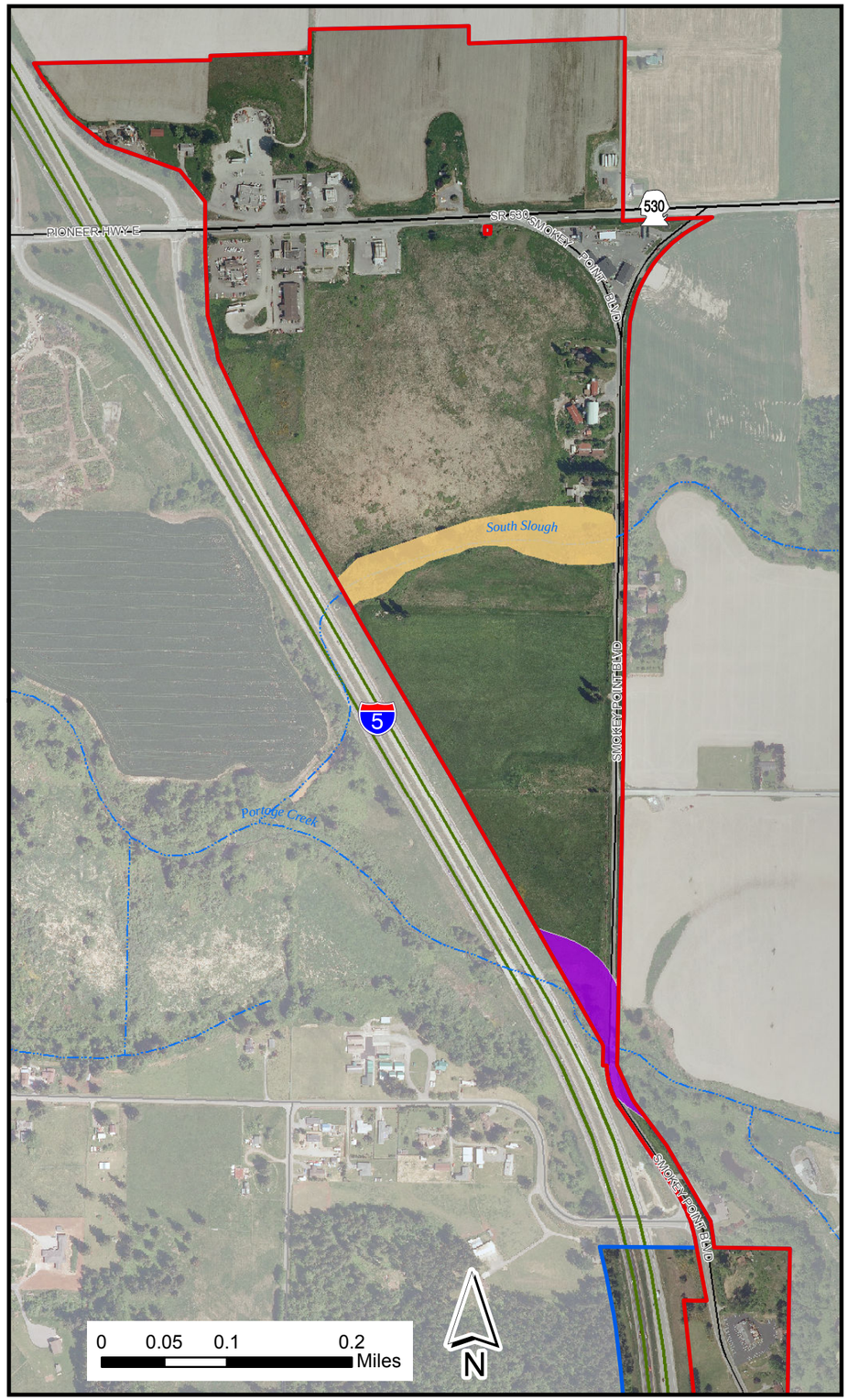
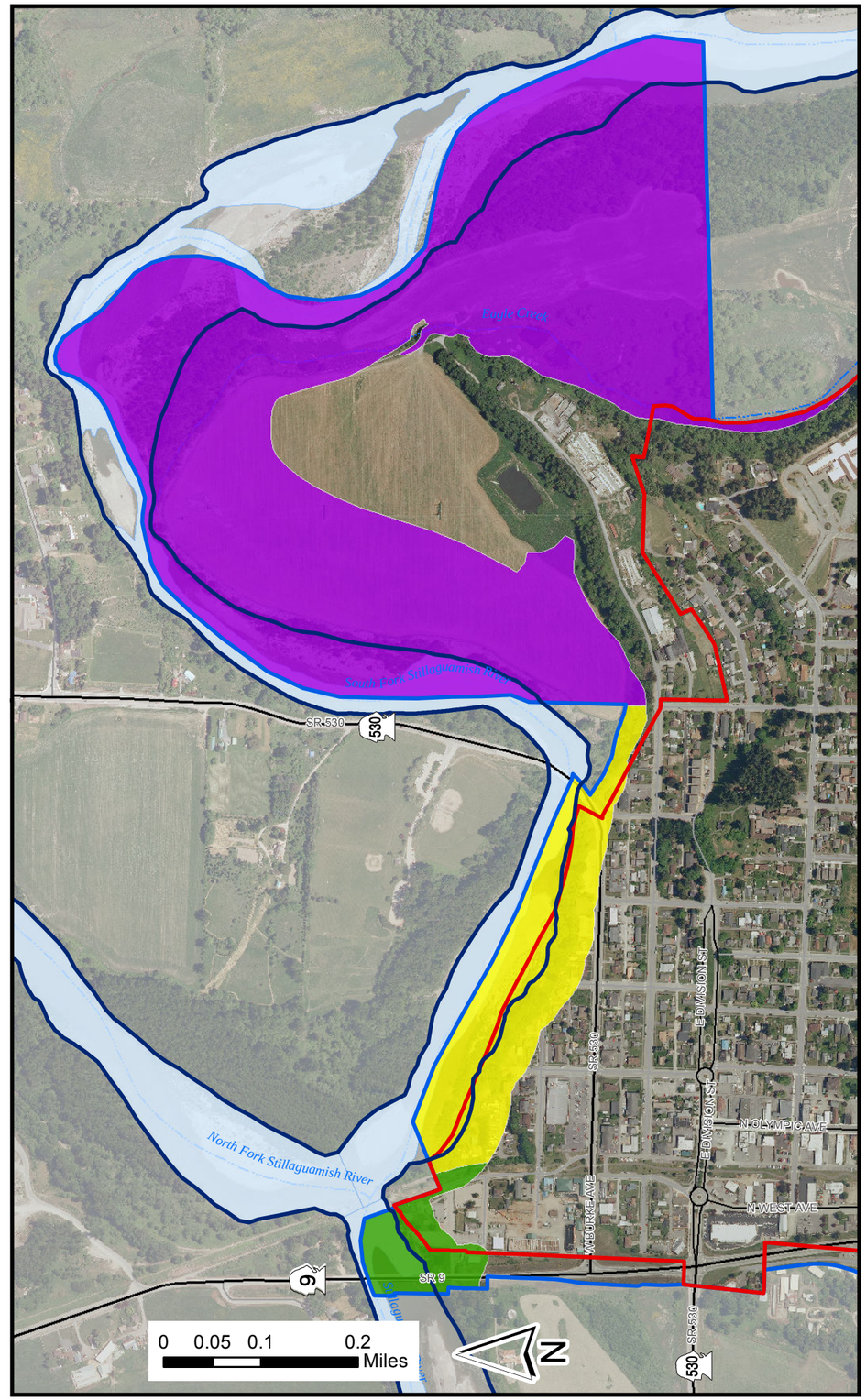
CITY OF ARLINGTON





City of Arlington
Shoreline Master Plan

Environment Designations: Old Town and Island Crossing

Legend

Environment Designations

- Natural
- Historic Shoreline Business District
- Urban Conservancy - Low Intensity
- Urban Conservancy - Open Space
- Ordinary High Water Mark (OHWM)

All areas waterward of the ordinary high water mark have an Aquatic Designation.

- City Limits
- City UGA
- Local roads
- Streams
- Rivers
- Ponds

DRAFT

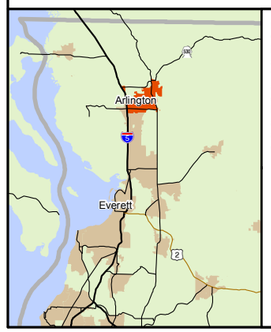
Streams and waterbodies courtesy of Snohomish County Dept of Information Systems, June 2009.

Aerials taken in June 2009.

Date:
09/09/2011

File:
EnvironDesignOTIC_11x17_10.mxd

Cartographer:
kdk/th



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APPENDIX B

Shoreline Environmentally Critical Areas

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APPENDIX C

Restoration Plan

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APPENDIX D

Jurisdiction Exhibits (Excerpts from the Shoreline Master Program Handbook)

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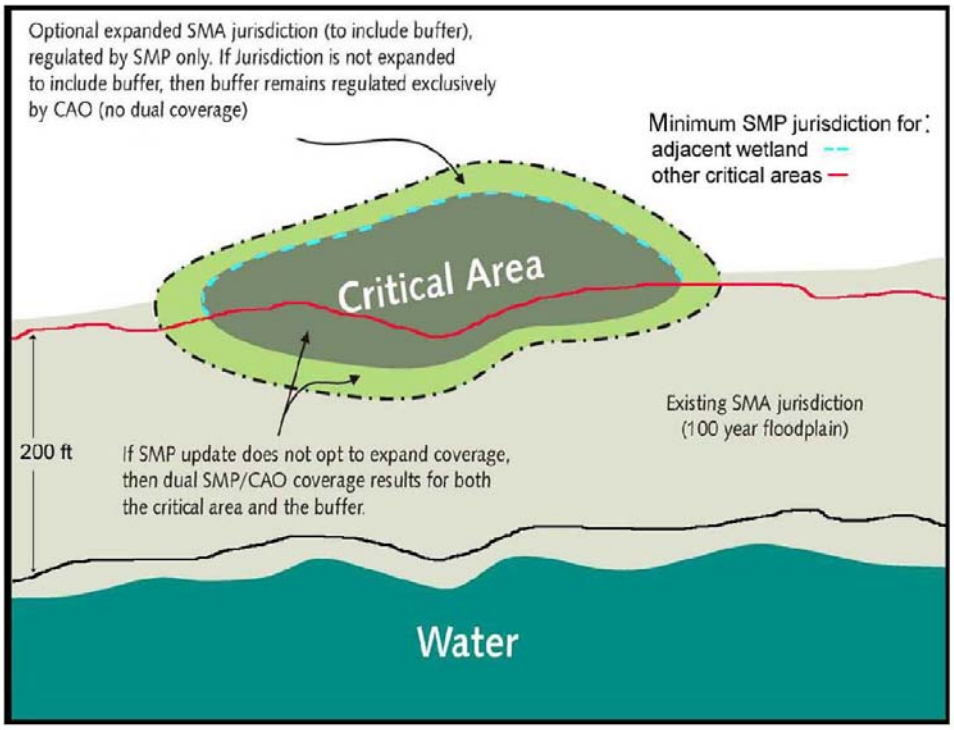

Figure 5-8: Local governments have the option to expand SMA jurisdiction to include lands necessary for buffers for critical areas.

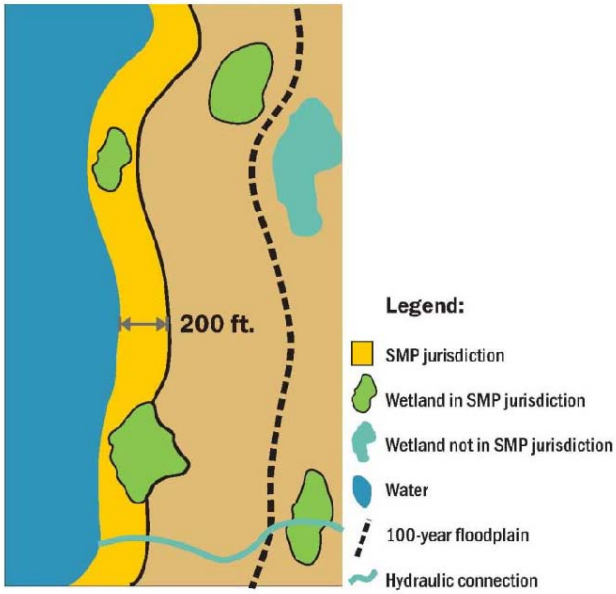

Figure 5-9: Wetlands in shoreline jurisdiction are either fully or partially within 200 feet of the OHWM, within the floodplain, or associated through hydraulic continuity.