

CITY OF SOAP LAKE

~~FINAL~~ SHORELINE MASTER PROGRAM DRAFT PERIODIC REVIEW UPDATE



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Prepared for

Grant County and Soap Lake

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DRAFT REDLINES FOR REVIEW

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SECTION I: Shoreline Goals and Policies (RCW 90.58.100)

Introduction

The City of Soap Lake Shoreline Master Program intends to implement the requirements of the Washington State Shoreline Management Act (SMA) (Revised Code of Washington (RCW 90.58). The SMA was enacted in 1971 to provide for the management and protection of shorelines of the state by regulating development in the shoreline area. The goal of the SMA is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." (RCW 90.58.020) The SMA requires cities and counties to adopt a Shoreline Master Program to regulate shoreline development and accommodate "all reasonable and appropriate uses" consistent with "protection against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life... and public rights of navigation." The City of Soap Lake adopted its Shoreline Master Program in 1974. The Department of Ecology adopted the 2003 Shoreline Management Act Guidelines (Chapter 173-26 Washington Administrative Code (WAC)) (Guidelines) which require local government review and updates of Shoreline Master Programs. The updated version of the Soap Lake Shoreline Master Program provides goals, policies and regulations for the development of Soap Lake shorelines.

Relationship to GMA

- A. A Shoreline Master Program (SMP) contains goals, policies, regulations, and a use map that guides shoreline development in accordance with the SMA (RCW 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (WAC 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).
- B. The provisions of this program implement the requirements of the SMA. The City's SMP is integrated with the City's land use regulation system. Consistent with RCW 36.70A.480, the goals and policies contained in this SMP shall be considered an element of the City's comprehensive plan required by the Growth Management Act. All other portions of this SMP, including the use regulations, are considered a part of the City's development regulations required by the Growth Management Act, and ~~be~~are part of Soap Lake Municipal Code.
- C. The Inventory and Characterization Report; Restoration Plan; Cumulative Impacts Analysis; No Net Loss Report; and Public Participation Plan are supporting documents, and are not adopted as part of this Program or the City's Comprehensive Growth Management Plan.
- D. The Inventory and Characterization Report establishes the baseline against which the standard "no net loss of shoreline ecological functions" is measured. The Restoration Plan identifies and prioritizes shoreline restoration and enhancement opportunities that may be undertaken independently or in conjunction with mitigation for development impacts to improve shoreline ecological functions over time.

Profile of the Shoreline Jurisdiction within the City of Soap Lake

The Washington State Shoreline Management Act defines the Shoreline of the State as "all 'shorelines' and 'shorelines of statewide significance' (SSWS) within the state" (RCW 90.58.030). The shoreline includes floodways; land within 200 feet of the ordinary high water

1 mark (OHWM) of the waterways; floodplains up to 200 feet from the floodway edge; and
2 associated wetlands. Lakes over twenty acres in size and wetlands associated with such small
3 lakes are included as shoreline jurisdiction water bodies.

4 Shorelines of statewide significance (RCW 90.58.030) are those lakes, whether natural, artificial,
5 or a combination thereof, with a surface acreage of one thousand acres or more measured at the
6 ~~ordinary high water mark~~ OHWM. The City of Soap Lake's shoreline jurisdiction consists of land
7 within 200 feet of the ~~ordinary high water mark-OHWM of shoreline~~ within the city limits along
8 Soap Lake. Soap Lake shoreline is a shoreline of the state but not a shoreline of Statewide
9 Significance because its surface acreage is less than one thousand acres.

10 **Development of Goals and Policies**

11 Goals express broad value statements that reflect the City's vision of its shorelines. Goals also
12 provide a framework upon which the more detailed SMP shoreline use environments, policies,
13 regulations, and administrative procedures are based in subsequent chapters. Policies are more
14 detailed statements reflecting the City's goals and visions for its shorelines. Policies provide
15 detail to the broader goals with which they are associated and act as a bridge between the goals
16 and implementing regulations.

17 The goals and policies of the SMP described in this element are categorized according to the
18 Master Program elements mandated in the SMA. The general goal and policy statements found
19 within each element of the Master Program are intended to provide the policy basis for
20 administration of the City's SMP.

21 **Economic Development Element**

22 A. Goal A: Support the development of water-oriented commercial services and
23 attractions that serve tourism and support the community's economy and shoreline
24 environment. Utilize the unique attribute of Soap Lake's "Healing Waters" as an
25 economic development theme.

26 B. Goal B: Promote economic growth that conserves natural resources, cultural and
27 historic resources, open spaces, and maintains environmental.

28 C. General Economic Development Policies:

29 1. Promote shoreline areas of the City of Soap Lake as an economic asset to the
30 community.

31 2. Promote recreational opportunities and tourist-oriented businesses along
32 shoreline that are compatible with or complement the character and existing
33 uses of critical areas and shoreline.

34 3. Give preference to economic activities which either leave natural shoreline
35 features such as trees, native plants and wildlife habitat unmodified, or which
36 modify them in a way which enhances human awareness and appreciation of
37 the shoreline and other natural and non-natural surroundings.

38 4. Give first preference to water-dependent uses, second preference to
39 ~~water-related~~ water related or water-enjoyment economic activities, and last
40 preference to non-water-oriented uses in areas where limited commercial

- 1 development space along shorelines is in demand for a number of competing
2 uses.
- 3 5. Ensure that any economic activity taking place along the shorelines operates
4 without causing irreparable harm to the quantity of the site’s environment or
5 adjacent shorelands.
- 6 6. Where possible, developments are encouraged to incorporate low impact
7 development techniques into new and existing projects and integrate
8 architectural and landscape elements that recognize the river environment.
- 9 7. Develop, as an economic asset, heritage tourism and preservation of cultural
10 and historic resources along shorelines in a manner that will enrich the
11 experience of residents and visitors alike.
- 12 8. Require non-water-oriented commercial or recreational development provide
13 for ecological restoration and public access as appropriate.

14 **D. Commercial Development Policies:**

- 15 1. Assure that commercial uses will not result in a net loss of shoreline
16 ecological functions or have significant adverse impacts on navigation,
17 recreation and public access.
- 18 2. Promote water-oriented commercial uses in shoreline areas that support
19 recreation and tourism.
- 20 3. Encourage multi-use commercial projects that include some combination of
21 ecological restoration, public access, open space, and recreation.

22 **Public Access and Recreation Element**

- 23 A. Goal A: Ensure that a diverse public access system to and along Soap Lake is
24 maintained and encouraged that is consistent with private property rights, public
25 safety and the natural shoreline character.
- 26 B. Goal B: Increase diverse, convenient and adequate recreational opportunities along
27 the shorelines of Soap Lake for public.
- 28 C. Policies:
- 29 1. Enhance recreational opportunities and public access to open spaces and
30 shoreline areas.
- 31 2. Promote tourism and recreational opportunities that are compatible with or
32 complement the character and existing uses of shoreline.
- 33 3. Encourage new development to provide links to parks through the
34 development of trails, and tourist recreational opportunities.
- 35 4. Identify opportunities for public access on publicly owned shorelines.
36 Preserve, maintain and enhance public access afforded by shoreline street
37 ends, public utilities and rights-of-way.
- 38 5. Provide physical and visual public access in the shoreline jurisdiction in
39 association with the following uses when feasible: residential developments

- 1 with five or more dwellings; commercial development; and public agency
- 2 recreational development.
- 3 6. Provide public access and interpretive displays as part of publicly funded
- 4 restoration projects where significant ecological impacts are addressed.
- 5 7. Give priority to water-oriented recreational opportunities in order to provide
- 6 access, use, and enjoyment. Give water-dependent recreation priority over
- 7 water-enjoyment recreation uses. Give water-enjoyment recreational uses
- 8 priority over non-water-oriented recreational uses
- 9 8. Allow for passive and active shoreline recreation that emphasizes location
- 10 along shorelines in association with the City's parks, recreation, wildlife
- 11 habitat and open space plans.
- 12 9. Promote recreational developments and plans that conserve the shoreline's
- 13 natural character, ecological functions, and processes.
- 14 10. Integrate and link recreation facilities with linear systems, such as walking
- 15 trail, bicycle paths, easements, and scenic drives when feasible.
- 16 11. Support the interpretation and protection of cultural and historic resources to
- 17 enrich the recreation experience at shorelines.

18 **Circulation Element**

- 19 A. Goal A: Implement multi-modal transportation system that provide for mobility
- 20 and access and that minimize adverse impacts on the shoreline environment.
- 21 B. Policies:
- 22 1. Provide safe, reasonable, and adequate circulation systems to shorelines where
- 23 routes will minimize adverse effects on unique or fragile shoreline features
- 24 and existing ecological systems, while contributing to the functional and
- 25 visual enhancement of the shoreline
- 26 2. Within the shoreline jurisdiction, locate land circulation systems that are not
- 27 shoreline dependent as far from the land-water interface as practicable to
- 28 reduce interference with either natural shoreline resources or other appropriate
- 29 shoreline uses
- 30 3. Allow for maintenance and improvements to existing roads and parking areas.
- 31 Allow for necessary new roads and parking areas where other locations
- 32 outside of shoreline jurisdiction are not feasible.
- 33 4. Consider pedestrian, bicycle, and public transportation where appropriate and
- 34 compatible with the natural character, resources, and ecology of the shoreline.
- 35 5. Promote existing transportation corridors for reuse for water-dependent uses
- 36 or public access when they are abandoned.
- 37 6. Plan parking to achieve optimum use. Where possible, parking should serve
- 38 more than one use (e.g. serving recreational use on weekends, commercial
- 39 uses on weekdays).

- 1 7. Encourage low-impact parking facilities, such as those with permeable
2 pavements and bio-swales.
- 3 8. Encourage the linkage of shoreline parks, recreation areas, and public access
4 points with linear systems, such as trails, bicycle paths, easements and/or
5 scenic drives.

6 **Shoreline Uses and Modifications Element**

7 A. Goal A: Encourage shoreline development that recognizes the City of Soap Lake's 8 natural and cultural values and its unique aesthetic qualities offered by its variety of 9 shoreline environments.

- 10 1. Ensure that uses, activities and facilities are located on the shorelines in such a
11 manner as to retain or improve the quality of the environment and will
12 maintain or improve the health, safety and welfare of the public.
- 13 2. Ensure that proposed shoreline uses do not infringe upon the rights of others,
14 upon the rights of private ownership, upon the rights of the public under the
15 Public Trust Doctrine and treaty rights of Indian tribes.

16 B. Shoreline Environment Designation Policies

- 17 1. Provide a comprehensive shoreline environment designation system to
18 categorize Soap Lake's shorelines into environments based upon the primary
19 characteristics of shoreline areas to guide the use and management of these
20 areas.
- 21 2. Assign appropriate environment designations for preservation of wildlife
22 habitat area, natural resources, cultural and historic resources, and public
23 agency operations.

24 C. Boating Facilities Policies

- 25 1. Locate and design boating facilities so that their structures and operations will
26 be compatible with the area affected such as environmental conditions,
27 shoreline configuration, access, and neighboring upland and aquatic uses.
- 28 2. Require restoration activities when substantial improvements or repair to
29 existing boating facilities is planned.
- 30 3. Boating facilities that minimize the amount of shoreline modification are
31 preferred.
- 32 4. Boating facilities should provide physical and visual public shoreline access
33 and provide for multiple use, including water-related use, to the extent
34 compatible with shoreline ecological functions and processes and adjacent
35 shoreline use.
- 36 5. Boating facilities should be located and designed to avoid adverse effects
37 upon riverine, and nearshore processes such as erosion, littoral or riparian
38 transport, and accretion, and, should where feasible, enhance degraded,
39 scarce, and/or valuable shore features including accretion shoreforms.

- 1 6. Location and design of boating facilities should not unduly obstruct navigable
2 waters and should avoid adverse effects to recreational opportunities such as
3 pleasure boating, commercial aquaculture, swimming, beach walking,
4 picnicking and shoreline viewing.
- 5 D. Dredging and Dredge Material Disposal Policies
- 6 1. Dredging and dredge material disposal should avoid and minimize significant
7 ecological impacts. Impacts which cannot be avoided should be mitigated.
- 8 2. Design and locate new shoreline development to avoid the need for dredging.
- 9 3. Limit dredging and dredge material disposal to the minimum necessary to
10 allow for shoreline restoration, flood hazard reduction, and maintenance of
11 existing legal moorage and navigation. Dredging to provide for new
12 navigation uses is prohibited.
- 13 4. Allow dredging for the primary purposes of flood hazard reduction only as
14 part of a long-term management strategy consistent with an approved flood
15 hazard management plan.
- 16 5. Ensure that dredging operations are planned and conducted in a manner that
17 will minimize interference with navigation and that will lessen adverse
18 impacts to other shoreline uses.
- 19 E. Docks and Piers Policies
- 20 1. Moorage associated with a ~~single-family~~single-family residence is considered
21 a water-dependent use provided that it is designed and used as a facility to
22 access watercraft, and other moorage facilities are not available or feasible.
23 Moorage for water-related and water enjoyment uses or shared moorage for
24 multifamily use should be allowed as part of a ~~mixed-use~~mixed-use
25 development or where it provides public access.
- 26 2. New moorage, excluding docks accessory to single family residences, should
27 be permitted only when the applicant/proponent has demonstrated that a
28 specific need exists to support the intended water-dependent or public access
29 use.
- 30 3. As an alternative to continued proliferation of individual private moorage,
31 mooring buoys are preferred over docks or floats. Shared moorage facilities
32 are preferred over single user moorage where feasible, especially where water
33 use conflicts exist or are predictable. New subdivisions of more than two (2)
34 lots and new multifamily development of more than two (2) dwelling units
35 should provide shared moorage where feasible.
- 36 4. Docks, piers, and mooring buoys, including those accessory to single family
37 residences, should avoid locations where they will adversely impact shoreline
38 ecological functions or processes, including currents and littoral drift.
- 39 5. Moorage should be spaced and oriented in a manner that minimizes hazards
40 and obstructions to public navigation rights and corollary rights thereto such

- 1 as, but not limited to swimming and pleasure boating, as well as private
2 riparian rights of adjacent land owners.
- 3 6. Moorage should be restricted to the minimum size necessary to meet the needs
4 of the proposed use. The length, width, and height of piers and docks should
5 be no greater than that required for safety and practicality for the primary use.
- 6 7. Pile supports are preferred over fills because piles do not displace water
7 surface and intertidal or aquatic habitat and are removable and thus more
8 flexible in terms of ~~long-term~~ long-term use patterns. Floats may be less
9 desirable than pile structures where aquatic habitat or littoral drift are
10 significant.
- 11 8. The use of buoys for small craft moorage is preferred over pile or float
12 structures because of lesser ~~long-term~~ long-term impact on shore features and
13 users; moorage buoys should be placed as close to shore as possible to
14 minimize obstruction to navigation.
- 15 9. Piers and docks should be constructed of materials that will not adversely
16 affect water quality or aquatic plants and animals in the long term.
- 17 10. New pier and dock development should be designed so as not to interfere with
18 lawful public access to or use of shorelines. Developers of new piers and
19 shared moorage should be encouraged to provide physical or visual public
20 access to shorelines whenever safe and compatible with the primary use and
21 shore features.
- 22 F. Fill and Excavation Policies
- 23 1. Limit fill waterward of the OHWM to support ecological restoration or to
24 facilitate water-dependent or public access uses.
- 25 2. Allow fill consistent with floodplain regulations upland of the OHWM
26 provided it is located, designed and constructed to protect shoreline ecological
27 functions and ecosystem-wide processes, including channel migration, and is
28 the minimum necessary to implement an approved project.
- 29 G. Groins and Weirs Policies
- 30 1. To the extent feasible, limit the use of jetties, groins, weirs or other similar
31 structures to those projects providing ecological restoration or other public
32 benefits. These structures should avoid and minimize significant ecological
33 impacts. Impacts which cannot be avoided should be mitigated.
- 34 H. Residential Development Policies
- 35 1. Consider single-family residential development as a priority use only when
36 developed in a manner consistent with the control of pollution and prevention
37 of damage to the natural environment.
- 38 2. Locate and construct residential development in a manner that ensures no net
39 loss of shoreline ecological functions.

- 1 3. Ensure the overall density of development, lot coverage, and height of
2 structures is appropriate to the physical capabilities of the site and consistent
3 with the comprehensive plan.
- 4 4. Ensure new residential development provides adequate buffers or open space
5 from the water to protect or restore ecological functions and ecosystem-wide
6 processes, to preserve views, to preserve shoreline aesthetic characteristics, to
7 protect the privacy of nearby residences, and to minimize use conflicts.
- 8 5. Make adequate provisions for services and infrastructure necessary to support
9 residential development.
- 10 6. Design and locate residential development to preserve existing shoreline
11 vegetation, to control erosion, and to protect water quality.
- 12 7. Design and locate new residences so that shoreline stabilization will not be
13 necessary to protect the structure. The creation of new residential lots should
14 not be allowed unless it is demonstrated the lots can be developed without:
 - 15 a. Constructing shoreline stabilization structures (such as bulkheads).
 - 16 b. Causing significant erosion or slope instability.
 - 17 c. Removing existing native vegetation within shoreline buffers.
- 18 I. Shoreline Habitat and Natural Systems Enhancement Projects Policies
- 19 1. Include provisions for shoreline vegetation restoration, aquatic and wildlife
20 habitat enhancement, and low impact development techniques in projects
21 located within shoreline jurisdiction, where feasible.
- 22 2. Encourage and facilitate implementation of projects and programs included in
23 the Shoreline Master Program Shoreline Restoration Plan.
- 24 J. Shoreline Stabilization Policies
- 25 1. Locate and design new development, including subdivisions, to eliminate the
26 need for new shoreline modification or stabilization.
- 27 2. Design, locate, size and construct new or replacement structural shoreline
28 stabilization measures to minimize and mitigate the impact of these
29 modifications on the City's shorelines.
- 30 3. Give preference to non-structural shoreline stabilization measures over
31 structural shoreline stabilization, and give preference to soft structural
32 shoreline stabilization over hard structural shoreline stabilization.
- 33 4. Allow location, design, and construction of riprap and other bank stabilization
34 measures primarily to prevent damage to existing development or to protect
35 the health, safety and welfare of the City of Soap Lake's residents.
- 36 K. Utilities Policies
- 37 1. Allow for utility maintenance and extension with criteria for location and
38 vegetation restoration as appropriate.

- 1 2. Plan, design, and locate utility facilities to minimize harm to shoreline
2 functions, preserve the natural landscape, and minimize conflicts with present
3 and future planned land and shoreline uses while meeting the needs of future
4 populations in areas planned to accommodate growth.
- 5 3. Do not permit new non-water-oriented primary utility production and
6 processing facilities, or parts of those facilities, such as power plants, solid
7 waste storage or disposal facilities within shoreline jurisdiction unless no
8 other options are feasible. Primary utility facilities, such as wastewater
9 treatment plants and including expansion of existing facilities, should be
10 located in shoreline jurisdiction only if no practical upland alternative or
11 location exists. Such facilities and expansions should be designed and located
12 to minimize impacts on shoreline ecological functions, including riparian and
13 aquatic areas, and to the natural landscape and aesthetics. Public health and
14 safety should be the highest priority for the planning, development and
15 operation of primary utility facilities.
- 16 4. Locate utility transmission facilities for the conveyance of services, such as
17 power lines, cables, and pipelines, outside of shoreline jurisdiction where
18 feasible. Where permitted within shoreline jurisdiction, such facilities should
19 be located within existing or approved road crossings, right-of-way and
20 corridors or in such a way as to minimize potential adverse impacts on
21 shoreline areas. Joint use of rights-of-way and corridors in shoreline areas
22 should be encouraged.
- 23 5. Locate new utility facilities so as not to require extensive shoreline protection
24 works.
- 25 6. Locate utility facilities and corridors to protect scenic views from public parks
26 and trails. Whenever possible, such facilities should be placed underground,
27 or alongside or under bridges.
- 28 7. Design utility facilities and rights-of-way to preserve the natural landscape
29 and to minimize conflicts with present and planned land uses.
- 30 L. Existing Uses Policies
- 31 1. Allow nonconforming existing legal uses and structures to continue in
32 accordance with this SMP. Residential structures and appurtenant structures
33 that were legally established and are used for a conforming use, but that do
34 not meet standards for the following should be considered a conforming
35 structure: setbacks, buffers, or yards; area; bulk; height; or density.
- 36 2. Allow alterations of nonconforming structures, uses, and lots in consideration
37 of historic development patterns, when occupied by preferred uses, and when
38 consistent with public safety and other public purposes.
- 39 3. Encourage transitions from nonconforming uses to conforming uses.
- 40 4. Allow for nonconforming structures to expand when they do not increase the
41 nonconformity according to SMP requirements.

- 1 5. Allow for existing roads, driveways and utility lines to continue and expand
2 when they do not increase the nonconformity according to SMP requirements.
- 3 6. Consider the no-net-loss of ecological function objective to guide review of
4 proposed expansions or other changes to nonconforming uses and new
5 development on nonconforming vacant lots. This objective may be addressed
6 in an area-wide manner consistent with the SMP cumulative impacts analysis.

7 **Conservation Element**

8 A. Goal A: The City should conserve or enhance important natural, cultural, and scenic
9 resources; preserve and protect the functions and values of the natural features and
10 maintain a harmonious relationship between the manmade community and the natural
11 environment.

12 B. Goal B: The Unique Mineral Content of Soap Lake should be preserved to the
13 greatest extent possible.

14 C. Goal C: Wetlands should be protected because they provide important ecological
15 functions that add to the quality of life.

16 D. Policies:

- 17 1. Protect streams, stream corridors, wetlands, natural shorelines, and aquifers.
- 18 2. Protect soil resources; and unique, diverse or critical wildlife and native plant
19 habitat.
- 20 3. Enhance the values and functions of parks, wildlife preserves, nature
21 conservancies or sanctuaries, or other open space lands.
- 22 4. The City should support public and private land trusts in acquiring
23 conservation easements that provide open space attributes, consistent with the
24 intents of property owners.
- 25 5. The City should support the conservation of open space and resource lands
26 through enrollment in the County's open space taxation program.
- 27 6. The City of Soap Lake should maintain and enforce those regulations which
28 are intended to preserve the mineral content of Soap Lake.
- 29 7. Control of erosion at its source as a means of controlling water pollution,
30 flooding, and habitat damage downstream should be encouraged.
- 31 8. Control stormwater runoff in a manner consistent with low impact
32 development practices which utilize natural detention, retention and recharge
33 techniques to the maximum extent possible.
- 34 9. Protect shoreline processes and ecological functions through regulatory and
35 non-regulatory means that may include acquisition of key properties,
36 conservation easements, regulation of development within shoreline
37 jurisdiction, and incentives to private property owners to encourage
38 ecologically sound design and implementation of best land management
39 practices.

- 1 10. Work with other jurisdictional agencies in the region and with the private
2 sector to deal effectively with regional and watershed-wide natural
3 environment issues and the protection, preservation, and
4 restoration/enhancement of all shorelines as aquatic and associated wildlife
5 habitat.
- 6 11. Enhance and restore areas which are biologically and aesthetically degraded to
7 the greatest extent feasible while maintaining appropriate use of the shoreline.

8 **Historic, Cultural, Scientific, and Educational Resources Element**

- 9 A. Goal A: Identify, preserve and protect historic, cultural and archaeological resources
10 found to be significant by regional, local, state or federal processes.
- 11 B. Goal B: Encourage educational and scientific projects and programs that foster a
12 greater appreciation of the importance of shoreline management, water-oriented
13 activities, environmental conservation and local historic connections with the City of
14 Soap Lake's shoreline.
- 15 C. Policies:
 - 16 1. Preserve scenic vistas, historic, cultural and archaeological sites.
 - 17 2. Identify, protect, preserve, and restore important archeological, historical, and
18 cultural sites located in shorelands.
 - 19 3. Prior to demolition, moving, or alteration to any designated historic, cultural,
20 and archaeological landmark, ensure that due consideration is given to
21 preservation or, at a minimum, documentation of its cultural or archaeological
22 value.
 - 23 4. Public recreation facilities should incorporate public education regarding
24 shoreline ecological functions and processes, the role of human actions on the
25 environment and the importance of public involvement in shorelines
26 management.

27 **Flood Hazard Management Element**

- 28 A. Goal A: Protect lake water mineral content and associated hydrologic conditions
29 along with public safety within Soap Lake's floodways and floodplains and protect
30 natural systems by preserving the flood storage function of floodplains, recognizing
31 lake elevation controlled by US Bureau of Reclamation.
- 32 B. Policies:
 - 33 1. Manage development proposed within floodplains and floodways consistent
34 with the Shoreline Management Act, the Federal Emergency Management
35 Agency (FEMA) standards, the Critical Areas Regulations for frequently
36 flooded areas contained within this SMP, and US Bureau of Reclamation lake
37 level elevation management.
 - 38 2. Control stormwater runoff in a manner consistent with low impact
39 development practices which utilize natural detention, retention and recharge
40 techniques to the maximum extent possible.

- 1 3. Prohibit any development within the floodplain which would individually or
- 2 cumulatively cause any increase in the base flood elevation, or contribute to
- 3 change in US Bureau of Reclamation operations, where additional lake
- 4 pumping is required to maintain the base lake elevation.

5 **Private Property Right** (WAC 173-26-191(2)(a)(i))

6 A. Goal A: Recognize and protect private property rights in shoreline uses and

7 developments consistent with the public interest.

8 B. Policies:

- 9 1. Shoreline uses should be located and designed to respect private property
- 10 rights, maintain privacy of private property, be compatible with the shoreline
- 11 environment, protect ecological functions and processes, and protect aesthetic
- 12 values of the shoreline.
- 13 2. Public access to shoreline such as trail, bikeways or roads should consider
- 14 privacy of private property owners when locating them near private
- 15 properties.

16

SECTION II: Shoreline Regulations – SLMC Chapter 14.08

Article I. Authority and Purpose

14.08.010 Authority

- A. The Shoreline Management Act (SMA) of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of this Shoreline Master Program (SMP).

14.08.020 Applicability

A. This SMP applies to all development, the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals or vegetation; 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. Development does not include the following activities:

1. Soap Lake management and water management operations related to lake levels and water quality that do not meet the definition of development as provided above;
2. Interior building improvements;
3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding;
5. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections;
6. Dismantling or removing structures if there is no other associated development or redevelopment;
7. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.305, or to Ecology when it conducts a remedial action under RCW 70.305;
8. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit;
9. Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356;
10. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045 and RCW 43.21K;
11. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to RCW 80.50; and

1 12. Areas and uses in those areas that are under exclusive federal jurisdiction as
2 established through federal or state statutes are not subject to the jurisdiction
3 of RCW 90.58.

4 A.B. This Program shall apply to all of the shorelands and waters within the City of Soap
5 Lake as described in the City’s SMP Section I, Profile of the Shoreline Jurisdiction
6 within the City of Soap Lake.

7 B.C. All proposed uses, activities, or development occurring within shoreline jurisdiction
8 must conform to the intent and requirements of Chapter 90.58 RCW, the SMA, and
9 this SMP whether or not a permit or other form of authorization is required, except
10 when specifically exempted by statute. See the City’s SMP Section I for the shoreline
11 jurisdiction description and SLMC Section 14.08.960 for the definition of uses,
12 activities, and development.

13 C.D. The SMP applies to shoreline jurisdiction within the City limits.

14 D.E. Pursuant to WAC 173-27-060, federal agency activities may be required by other
15 federal laws to meet the permitting requirements of chapter 90.58 RCW. This
16 Program shall apply to all nonfederal developments and uses undertaken on federal
17 lands and on lands subject to nonfederal ownership, lease or easement, even though
18 such lands may fall within the external boundaries of a federal ownership.

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

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

27 **14.08.030 Purpose**

28 A. The purposes of this SMP are:

- 29 1. To promote the public health, safety, and general welfare of the City by
30 providing comprehensive policies and effective, reasonable regulations for
31 development, use and protection of jurisdictional shorelines; and
- 32 2. To further assume and carry out the local government responsibilities
33 established by the SMA in RCW 90.58.050 including planning and
34 administering the regulatory program consistent with the policy and
35 provisions of the SMA in RCW 90.58.020; and
- 36 3. To provide a high quality shoreline environment where:
 - 37 a. Recreational opportunities are abundant;
 - 38 b. The public enjoys access to and views of shoreline areas;
 - 39 c. Natural systems are preserved, restored or enhanced;

- 1 d. Ecological functions of the shoreline are maintained and improved
- 2 over time; and
- 3 e. Water-oriented uses are promoted consistent with the shoreline
- 4 character and environmental functions.
- 5 4. To apply special conditions to those uses which are not consistent with the
- 6 control of pollution and prevention of damage to the natural environment or
- 7 are not unique to or dependent upon use of the state's shoreline; and
- 8 5. To ensure no net loss of ecological functions associated with the shoreline.

9 **14.08.040 Relationship to Other Codes, Ordinances and Plans**

- 10 A. All applicable federal, state, and local laws shall apply to properties in the shoreline
- 11 jurisdiction. Where this Program makes reference to any RCW, WAC, or other state
- 12 or federal law or regulation the most recent amendment or current edition shall apply.
- 13 B. In the event provisions of this SMP conflict with provisions of federal, state or city
- 14 regulations, the provision that is most protective of shoreline resources shall prevail.
- 15 It is understood that the provisions of this chapter may not allow development to
- 16 occur at what otherwise might be the property's full zoning potential.
- 17 C. The policies in the SMP, contained in the Shoreline Master Program Elements, state
- 18 the underlying objectives the regulations are intended to accomplish. The policies
- 19 guide the interpretation and enforcement of the SMP regulations contained in this
- 20 Chapter, SLMC 14.08. The policies are not regulations in themselves and, therefore,
- 21 do not impose requirements beyond those set forth in the regulations.
- 22 D. This Shoreline Master Program contains critical area regulations in Article V of this
- 23 Chapter. Critical area regulations are applicable only in shoreline jurisdiction. They
- 24 provide a level of protection to critical areas and ensure no net loss of shoreline
- 25 ecological functions necessary to sustain shoreline natural resources. (RCW
- 26 36.70A.480).
- 27 E. Projects in the shoreline jurisdiction that have either been deemed technically
- 28 complete through the application process or have been approved through local and
- 29 state reviews prior to the adoption of this Program are considered accepted. Major
- 30 changes or new phases of projects that were not included in the originally approved
- 31 plan will be subject to the policies and regulations of this Program.
- 32 F. The SMP is intended to align with and support City of Soap Lake Resolution 2016-
- 33 848, A Resolution Adopting the Lake Liaison Committee Recommendations, which
- 34 outlines the values, vision, mission and actions to protect, preserve and restore the
- 35 lake in partnership with the City of Soap Lake through formation of a Liaison
- 36 Committee.
- 37 G. The mineral waters of Soap Lake meet the eligibility criteria for the Outstanding
- 38 Resource Water State designation through the Washington Department of Ecology.
- 39 Pending regulatory rule adoption, this may carry specific restrictions associated with
- 40 activities that may pollute or otherwise degrade the lake.

1 E.H. Soap Lake’s shoreline is uniquely influenced by the U.S. Bureau of Reclamation’s
2 1976 Transfer Contract titled: *Transfer Report and Report of Joint Inspection in*
3 *Connection with the Transfer of Operation and Maintenance Responsibilities of*
4 *Bureau Constructed Works, Special Reserved Works (Quincy District) to the QCBID.*
5 Through agreement, the U.S. Bureau of Reclamation controls the lake elevation as
6 measured from the 1078-foot mean sea level (MSL) elevation, as recorded in the
7 U.S. Bureau of Reclamation 400 scale topography 22N R27E map, dated May 26,
8 1936.

9 **14.08.050 Liberal Construction**

10 A. As provided for in RCW 90.58.900, the SMA is exempted from the rule of strict
11 construction. The City shall therefore interpret the SMP not only on the basis of
12 actual words and phrases used in it, but by also taking purposes, goals, and policies
13 into account.

14 **14.08.060 Severability**

15 A. Should any section or provision of this SMP be declared invalid, such decision shall
16 not affect the validity of this SMP as a whole.

17 **14.08.070 Effective Date**

18 A. The SMP is hereby adopted on the 17 day of September, 2014. This SMP and all
19 amendments thereto shall become effective fourteen (14) days after final approval
20 and adoption by Ecology.
21

Article II. Environment Designations

14.08.100 Environment Designations

A. The City has designated shorelines pursuant to chapter 90.58 RCW by defining them, providing criteria for their identification and establishing the shoreline ecological functions to be protected. Project proponents are responsible for determining whether a shoreline exists and is regulated pursuant to this Program. The SMP classifies the City of Soap Lake's shoreline into ~~four~~six shoreline environment designations consistent with the purpose and designation criteria as follows:

1. Aquatic
2. Urban Conservancy
3. Recreation
4. Public Recreation Conservancy
5. Shoreline Residential
6. Shoreline Residential – Low Intensity

B. Official Shoreline Maps

1. Shoreline Area Designations are delineated on a map, hereby incorporated as a part of this Program (SLMC 14.08.970) that shall be known as the Official Shoreline Map. The purpose of the Official Shoreline Map is to identify Shoreline Area Designations. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed.

C. Unmapped or Undesignated Shorelines

1. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.

D. Interpretation of Environment Designation Boundaries

1. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries. Appeals of such interpretations may be filed pursuant to Section 14.08.910, Appeals.
2. All shoreline areas waterward of the OHWM shall be designated Aquatic.
3. Only one shoreline area designation shall apply to a given shoreland area.
4. All areas within shorelines that are not mapped and/or designated are automatically assigned Urban Conservancy designation.

1 **14.08.110 Aquatic**

2 A. Purpose

3 1. The purpose of the “Aquatic” shoreline designation is to protect, restore, and
4 manage the unique characteristics and resources of the areas waterward of the
5 ~~ordinary high water mark~~ (OHWM).

6 B. Designation Criteria

7 1. An Aquatic shoreline designation is assigned to lands and waters waterward
8 of the ~~ordinary high water mark~~ OHWM.

9 C. Management Policies

10 1. In addition to the other applicable policies and regulations of this Program, the
11 following management policies shall apply:

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

14 b. Shoreline uses and modifications should be designed and managed to
15 prevent degradation of water quality and natural hydrographic
16 conditions.

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

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

23 i. minimize interference with surface navigation

24 ii. consider impacts to public views

25 iii. allow for the safe, unobstructed passage of wildlife,
26 particularly species dependent on migration

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

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

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

38 h. Aquaculture practices should be encouraged in those waters and beds
39 most suitable for such use. Aquaculture should be discouraged where

1 it would adversely affect the strength or viability of native stocks or
2 unreasonably interfere with navigation.

3 i. Shoreline uses, development, activities, and modifications in the
4 Aquatic shoreline designation requiring use of adjacent landside
5 property should be in a shoreline designation that allows that use,
6 development, activity or modification.

7 **14.08.120 Urban Conservancy (~~on unimproved C1 zones~~)**

8 A. Purpose

9 1. The purpose of the "urban conservancy" environment is to protect and restore
10 ecological functions of open space, fully or partially unimproved areas, flood
11 plain and other sensitive lands where they exist in urban and developed
12 settings, while allowing a variety of compatible uses.

13 B. Designation Criteria

14 1. The following criteria are used to consider an Urban Conservancy shoreline
15 designation:

16 a. The shoreline is located within the urban growth area boundary or
17 within an unimproved area within the City limits;

18 b. The shoreline has moderate to high ecological function with moderate
19 to high opportunity for preservation and low to moderate opportunity
20 for restoration or low to moderate ecological function with moderate to
21 high opportunity for restoration;

22 c. The shoreline has potential for public, water-oriented recreation where
23 ecological functions can be maintained or restored; or

24 d. The shoreline has high scientific or educational value or unique
25 historic or cultural resources value.

26 C. Management Policies

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

29 a. Allowed uses should be those that preserve the natural character of the
30 area and/or promote preservation and restoration within critical areas
31 and public open spaces either directly or over the long term.

32 b. Uses that result in restoration of ecological functions should be
33 allowed if the use is otherwise compatible with the purpose of the
34 environment and the setting.

35 c. Development, when feasible, should be designed to ensure that any
36 necessary shoreline stabilization, flood control measures, native
37 vegetation removal, or other shoreline modifications do not result in a
38 net loss of shoreline ecological function or further degrade other
39 shoreline values.

- 1 d. Public access and recreational facilities should be promoted.
- 2 e. Water-oriented uses should be given priority over non-water-oriented
- 3 uses.

4 **14.08.130 Recreation**

5 A. Purpose

- 6 1. The purpose of the "Recreation" environment is to provide for ~~water-oriented~~
- 7 ~~recreational-oriented recreational~~ uses with some commercial uses to support
- 8 recreational uses while protecting existing ecological functions, conserving
- 9 existing natural resources and restoring ecological functions in areas that have
- 10 been previously degraded.

11 B. Designation Criteria

- 12 1. The following criteria are used to consider a Recreation Shoreline designation:
- 13 a. The shoreline has low to moderate ecological function with low to
- 14 moderate opportunity for preservation and low to moderate
- 15 opportunity for restoration.
- 16 b. The shoreline is highly developed and most development is recreation-
- 17 related with potential for additional recreation and recreation related
- 18 commerce; or are suitable and planned for water-oriented uses.
- 19 c. The shoreline is planned, platted or currently used for recreational
- 20 development.
- 21 d. The shoreline has existing recreation uses or moderate to high
- 22 potential for public and private, water-oriented recreation where
- 23 ecological functions can be maintained or enhanced; or
- 24 e. The shoreline has limited scientific or educational value or unique
- 25 historic or cultural resources values.

26 C. Management Policies

- 27 1. In addition to the other applicable policies and regulations of this Program the
- 28 following management policies shall apply:
- 29 a. In regulating uses in the "Recreation" environment, first priority
- 30 should be given to water-dependent recreational uses. Second priority
- 31 should be given to water-related and water-enjoyment recreational
- 32 uses. Non-water-oriented uses should not be allowed except as part of
- 33 ~~mixed-use~~ mixed-use developments with a recreation focus.
- 34 b. Policies and regulations shall ensure no net loss of shoreline ecological
- 35 functions as a result of new development. Consistent with the City's
- 36 restoration plan, new development shall include restoration of
- 37 shoreline functions as part of project proposals.
- 38 c. Where feasible, visual and physical public access should be required
- 39 and/or enhanced as provided for in SLMC 14.08.260, Public Access.

1 Recreational objectives should be enhanced by combining physical
2 and visual public access opportunities with other recreational
3 opportunities where feasible.

4 d. Water-oriented commercial uses should be allowed.

5 e. Aesthetic objectives should be implemented by means such as sign
6 control regulations, appropriate development siting, screening and
7 architectural standards, and maintenance of natural vegetative buffers.

8 **14.08.140 Public Recreation Conservancy**

9 A. Purpose

10 1. The purpose of the “Public Recreation Conservancy” shoreline designation is
11 to provide continued and enhanced recreational opportunities while protecting
12 shoreline ecological functions, conserve existing natural resources and
13 valuable historic and cultural areas in order to provide for sustained resource
14 use.

15 B. Designation Criteria

16 1. The following criteria are used to consider a Public Recreation Conservancy
17 shoreline designation:

18 a. The shoreline is ~~publically~~publicly owned and includes facilities and
19 infrastructure that provide both aquatic habitat and water supply
20 benefits;

21 b. The shoreline has low to high ecological function with moderate to
22 high opportunity for preservation and low to moderate opportunity for
23 restoration;

24 c. The shoreline is not highly developed and most development is
25 recreation-related;

26 d. The shoreline is planned for or has an existing recreation use;

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

30 f. The shoreline has high scientific or educational value or unique
31 historic or cultural resources value.

32 C. Management Policies

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

35 a. Uses in the Public Recreation Conservancy – shoreline designation
36 should be limited to uses that sustain the shoreline area's physical and
37 biological resources and do not substantially degrade shoreline
38 ecological functions or the rural or natural character of the shoreline
39 area.

- 1 b. Recreation development shall ensure no net loss of shoreline
2 ecological functions and preserve the existing character of the
3 shoreline consistent with the purpose of this designation.
- 4 c. Encourage regulations that provide adequate setbacks from the
5 shoreline, promote native vegetation conservation and invasive species
6 control/removal and replacement with native species, reduce the need
7 for shoreline stabilization and maintain or improve water quality to
8 ensure no net loss of shoreline ecological functions.
- 9 d. Water-dependent and water-enjoyment recreation facilities that do not
10 deplete the resource over time are preferred uses, provided significant
11 adverse impacts to the shoreline are avoided and unavoidable impacts
12 are minimized and mitigated.
- 13 e. Developments and uses that would substantially degrade or
14 permanently deplete the biological resources of the area should not be
15 allowed.
- 16 f. New shoreline stabilization, vegetation removal, and other shoreline
17 modifications should be designed and managed consistent with these
18 guidelines to ensure that the natural shoreline functions are protected.
19 Such shoreline modification should not be inconsistent with planning
20 provisions for restoration of shoreline ecological functions.

21 **14.08.150 Shoreline Residential**

22 A. Purpose

- 23 1. The purpose of the “Shoreline Residential” designation is to accommodate
24 primarily residential development and appurtenant structures, but to also allow
25 other types of development that are consistent with this chapter. An additional
26 purpose is to provide appropriate public access and recreational uses.

27 B. Designation Criteria.

- 28 1. Assign a "Shoreline Residential” environment designation to shoreline areas
29 that are:
- 30 2. The shoreline has low to moderate ecological function with low to moderate
31 opportunity for restoration
- 32 3. The shoreline contains mostly residential development at urban densities and
33 does not contain resource industries (agriculture, forestry, mining)
- 34 4. The shoreline is planned or platted for residential uses in the comprehensive
35 plan; or
- 36 5. The shoreline has low to moderate potential for low-impact, passive or active
37 water-oriented recreation where ecological functions can be restored.

38 C. Management Policies.

- 39 1. In addition to the other applicable policies and regulations of this Program the
40 following management policies shall apply:

- 1 a. Encourage regulations that ensure no net loss of shoreline ecological
2 functions as a result of new development such as limiting lot coverage,
3 providing adequate setbacks from the shoreline, promoting vegetation
4 conservation, reducing the need for shoreline stabilization and
5 maintaining or improving water quality to ensure no net loss of
6 ecological functions.
- 7 b. The scale and density of new uses and development should be
8 compatible with sustaining shoreline ecological functions and
9 processes, and the existing residential character of the area.
- 10 c. Public access and joint (rather than individual) use of recreational
11 facilities should be promoted.
- 12 d. Access, utilities, and public services to serve proposed development
13 within shorelines should be constructed outside shorelines to the extent
14 feasible, and be the minimum necessary to adequately serve existing
15 needs and planned future development.
- 16 e. Public or private outdoor recreation facilities should be provided with
17 proposals for subdivision development and encouraged with all
18 shoreline development if compatible with the character of the area.
19 Priority should be given first to water-dependent and then to water-
20 enjoyment recreation facilities.
- 21 f. Commercial development should be limited to water-oriented uses.
22 ~~Nonwater~~Non water-oriented commercial uses should only be allowed
23 as part of mixed-used developments.

24 **14.08.160 Shoreline Residential – Low Intensity**

- 25 A. Purpose
- 26 1. The purpose of the “Shoreline Residential – Low Intensity” designation is to
27 accommodate residential development while protecting and, where
28 appropriate, enhancing ecological functions. An additional purpose is to
29 provide appropriate public access and recreational uses.
- 30 B. Designation Criteria
- 31 1. Assign a "Shoreline Residential – Low Intensity” environment designation to
32 shoreline areas where:
 - 33 a. The shoreline has moderate to high ecological function with low to
34 moderate opportunity for restoration, and provides opportunity for
35 development that is compatible with ecological protection/restoration.
 - 36 b. The shoreline is planned or platted for residential uses in the
37 comprehensive plan; or
 - 38 c. The shoreline may support public passive or active water-oriented
39 recreation with opportunity for ecological functions restoration.
- 40 C. Management Policies

- 1 3. “Prohibited” activities, uses, developments, and modifications are not allowed
2 and cannot be permitted through a Variance or Shoreline Conditional Use
3 Permit.
- 4 4. General Regulations, per Article III of this Chapter, and Shoreline
5 Modifications and Uses Regulations, per Article IV of this Chapter, shall be
6 considered for additional limitations.
- 7 B. Accessory uses shall be subject to the same shoreline permitting process as their
8 primary use.
- 9 C. Where there is a conflict between the chart and the written provisions in this SMP, the
10 written provisions shall control.
- 11 D. Authorized uses and modifications shall be allowed only in shoreline jurisdiction
12 where the underlying zoning allows for it and are subject to the policies and
13 regulations of this SMP.
- 14 E. A use is considered unclassified when it is not listed in Table 14.08.200 (I), Shoreline
15 Use and Modification Matrix or in Shoreline Modifications and Uses Regulations, Per
16 Article IV of this Chapter. Any proposed unclassified use may be authorized as a
17 conditional use provided that the applicant can demonstrate consistency with the
18 requirements of this Master Program and the requirements for conditional uses.
- 19 F. If any part of a proposed activity, use, modification or development is not eligible for
20 exemption per Section 14.08.870, Exemptions from Shoreline Substantial
21 Development Permits), then a Shoreline Substantial Development Permit or Shoreline
22 Conditional Use Permit shall be required for the entire proposed development project.
- 23 G. When a specific use or modification extends into the Aquatic environment and an
24 abutting upland environment without clear separation (e.g., shoreline stabilization),
25 the most restrictive permit process shall apply to that use or modification.
- 26 H. Shoreline and critical areas buffers found in Article V of this Chapter apply to all uses
27 and modifications unless stated otherwise in the regulations.
- 28 I. Shoreline use and modification matrix:
29

1

Table 14.08.200 (I). Shoreline Use and Modification Matrix

Abbreviations A = Allowed use with Substantial Development Permit; C = Conditional Use Permit; X= Prohibited; N/A = Not Applicable;						
Use/ Modification	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Boating Facilities						
Boat launch (motorized boats)	A	X	A	A	C	C
Boat launch (non-motorized boat - canoe / kayak)	A	A	A	A	A	A
Commercial Development						
Water dependent	A	C	A	A	A	X
Water-related, Water-enjoyment	X	X	A	C	X	X
Non-water-oriented	X	X	C ¹	X	X	X
Docks, Piers, Mooring Facilities	A	C	A	A	A	C
Dredging Activities						
Dredging	X	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	X	X	X	X	X	X
Dredging & Disposal as part of Ecological Restoration/ Enhancement	A	A	A	A	A	A
Fill and Excavation						
Waterward of OHWM	C	N/A	N/A	N/A	N/A	N/A
Other upland fill and excavation	N/A	A	A	A	A	A
In-water Modifications						
Groins and Weirs	C	C	C	C	C	C
Mining	X	X	X	X	X	X
Recreational Development						
Water-dependent	A	A	A	A	A	A
Water-related/enjoyment (trails, accessory buildings)	C	A	A	A	A	A
Non-water-oriented	X	C	C	C	C	C
Residential Development	X	X	X	X	A	A
Shoreline Habitat and Natural Systems Enhancement Projects	A	A	A	A	A	A
Shoreline Stabilization						
New						
Hard	C	C	C	C	C	C
Soft	A	A	A	A	A	A
Replacement	A	A	A	A	A	A
Transportation						
Highways, Arterials, Railroads (parallel to OHWM)	C	A	A	A	A	A
Secondary/Public Access Roads (parallel to OHWM)	X	A	A	A	A	A
Roads perpendicular to the OHWM	X	A	A	A	A	A
Bridges (perpendicular to shoreline)	C	C	A	C	C	C

Abbreviations A = Allowed use with Substantial Development Permit; C = Conditional Use Permit; X= Prohibited; N/A = Not Applicable;						
Use/ Modification	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Existing bridges, trails, roads, and parking facilities: improvement or expansion	A	A	A	A	A	A
New Parking, Accessory ²	Permitted under the primary use permit process					
New Parking, Primary	X	C	C	C	X	X
Utility						
Above and under-ground Utilities (parallel or cross shoreline)	C	A	A	A	A	A

- 1 1 Allowed as part of mixed-use development
- 2 2 Not allowed within 50 ft of edge of riparian vegetation corridor

14.08.210 Development Standards

A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 14.08.210 (A). These standards apply to all use and modification unless indicated otherwise. In addition, shoreline developments shall comply with all other dimensional requirements of the City of Soap Lake Municipal Code.

Table 14.08.210 (A). Development Standards

	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Building Height: maximum in feet (according to 14.08.210(C))	15	35 <u>18</u>				
Impervious Surface Cover (in % feet)	NA	10	20	10	30	25
Riparian Buffer Width (in feet) ^{1,2}	NA	75	50	75	50	75
Trail Width (in feet)	NA	<u>Trails on public access easements for public trails shall have a minimum width of 10 feet; Trails on private properties and not open for public use shall be up to 5 feet wide or as required by Americans for Disabilities Act (ADA) regulations</u>				

- 1 1 Measured from the ~~1078-foot mean sea level (MSL) elevation, as this elevation is controlled by the U.S. Bureau of Reclamation ordinary high water mark at the time of development application.~~
- 2 2 Accompanied by other critical area protections, and stormwater management measures, as applicable

- 1 B. When a development or use is proposed that does not comply with the dimensional
2 performance standards of this SMP not otherwise allowed by administrative reduction
3 or administrative modification, such development or use can only be authorized by
4 approval of a Shoreline Variance.
- 5 C. No permit shall be issued for any new or expanded building or structure of more than
6 ~~35-18~~ feet above average grade level on shorelines of the state that will obstruct the
7 view of a substantial number of residences on areas adjoining such shorelines, except
8 where the SMP does not prohibit the same, and then only when overriding
9 considerations of the public interest will be served.

10 **14.08.220 Archaeological and Historic Resources**

- 11 A. In all developments, whenever an archaeological area or historic site is discovered by
12 a development in the shoreline area, the developer shall immediately stop the work
13 and notify the City of Soap Lake, and the Department of Archaeology and Historic
14 Preservation and affected Indian tribes.
- 15 B. Upon receipt of application for a shoreline permit or request for a statement of
16 exemption for development on properties within 500 feet of a site known to contain
17 an historic, cultural or archaeological resource, or upon findings as described in
18 Section 14.08.220 (A) above, the City shall require a cultural resource site
19 assessment; provided that, the provisions of this section may be waived if the
20 Shoreline Administrator determines that the proposed development activities do not
21 include any ground disturbing activities and will not impact a known historic, cultural
22 or archaeological site. The site assessment shall be conducted by a professional
23 archaeologist or historic preservation professional, as applicable, to determine the
24 presence of significant historic or archaeological resources. The fee for the services of
25 the professional archaeologist or historic preservation professional shall be paid by
26 the landowner or responsible party. The applicant shall submit a minimum of five (5)
27 copies of the site assessment to the Shoreline Administrator for distribution to the
28 applicable parties for review.
- 29 C. If the cultural resource site assessment identifies the presence of significant historic or
30 archaeological resources, a Cultural Resource Management Plan (CRMP) shall be
31 prepared by a professional archaeologist or historic preservation professional, as
32 applicable. The fee for the services of the professional archaeologist or historic
33 preservation professional shall be paid by the landowner or responsible party. In the
34 preparation of such plans, the professional archaeologist or historic preservation
35 professional shall solicit comments from the Washington State Department of
36 Archaeology and Historic Preservation, and the local tribes ~~(Colville)~~.

37 **14.08.230 Environmental Protection**

- 38 A. All project proposals, including those for which a Shoreline Substantial Development
39 Permit is not required, shall comply with RCW Chapter 43.21C, the Washington
40 State Environmental Policy Act.
- 41 B. Applicants shall apply the following sequence of steps in order of priority to avoid or
42 minimize significant adverse effects and significant ecological impacts, with 1) being
43 top priority:

- 1 1. Avoiding the adverse impact altogether by not taking a certain action or parts
- 2 of an action;
- 3 2. Minimizing adverse impacts by limiting the degree or magnitude of the action
- 4 and its implementation by using appropriate technology or by taking
- 5 affirmative steps to avoid or reduce impacts;
- 6 3. Rectifying the adverse impact by repairing, rehabilitating, or restoring the
- 7 affected environment to the conditions existing at the time of the initiation of
- 8 the project;
- 9 4. Reducing or eliminating the adverse impact over time by preservation and
- 10 maintenance operations;
- 11 5. Compensating for the adverse impact by replacing, enhancing, or providing
- 12 substitute resources or environments; and
- 13 6. Monitoring the adverse impact and the compensation projects and taking
- 14 appropriate corrective measures.
- 15 C. Projects that cause significant adverse environmental impacts, as defined in WAC
- 16 197-11-794 and the Definitions Section of this SMP, are not allowed unless mitigated
- 17 according to B, above, to avoid reduction or damage to ecosystem-wide processes and
- 18 ecological functions. As part of this analysis, the applicant shall evaluate whether the
- 19 project may adversely affect existing hydrologic connections between streams and
- 20 wetlands, and either modify the project or mitigate any impacts as needed.
- 21 D. When compensatory measures are appropriate pursuant to the mitigation priority
- 22 sequence above, preferential consideration shall be given to measures that replace the
- 23 adversely impacted functions directly and in the immediate vicinity of the adverse
- 24 impact. However, alternative compensatory mitigation may be authorized within the
- 25 affected drainage area or watershed that addresses limiting factors or identified
- 26 critical needs for shoreline resource conservation based on watershed or
- 27 comprehensive resource management plans, including the Shoreline Restoration Plan,
- 28 applicable to the area of adverse impact may be authorized. Authorization of
- 29 compensatory mitigation measures may require appropriate safeguards, terms or
- 30 conditions as necessary to ensure no net loss of ecological functions.

31 **14.08.240 Shoreline Vegetation Conservation**

- 32 A. Vegetation conservation standards shall not apply retroactively to existing uses and
- 33 developments. Vegetation associated with existing structures, uses and developments
- 34 may be maintained within shoreline jurisdiction as stipulated in the approval
- 35 documents for the development.
- 36 B. Regulations specifying establishment and management of shoreline buffers are
- 37 located in Article V. Critical Areas. Vegetation within shoreline buffers, and wetlands
- 38 and wetland buffers shall be managed consistent with Article V. Critical Areas.
- 39 C. Vegetation outside of riparian buffers, and wetlands and wetland buffers and within
- 40 shoreline jurisdiction shall be managed according to Section 14.08.230,

1 Environmental Protection, and any other regulations specific to vegetation
2 management contained in other chapters of this SMP.
3 D. Vegetation clearing outside of riparian and wetlands and associated buffers shall be
4 limited to the minimum necessary to accommodate approved shoreline development
5 that is consistent with all other provisions of this SMP. Mitigation sequencing shall be
6 applied so that the design and location of the structure or development minimizes
7 native vegetation removal. Selective pruning of trees for safety and view protection is
8 allowed.

9 **14.08.250 Water Quality, Stormwater, and Nonpoint Pollution**

10 A. The location, design, construction, and management of all shoreline uses and
11 activities shall protect the quality and quantity of surface and groundwater adjacent to
12 the site.

13 B. When applicable, all shoreline development should comply with the applicable
14 requirements of the latest version of the Washington State Department of Ecology’s
15 (Ecology) Stormwater Management Manual for Eastern Washington.

16

17 C. Potentially harmful materials, including but not limited to oil, chemicals, tires, or
18 hazardous materials, shall not be allowed to enter any body of water or wetland, or to
19 be discharged onto the land. Potentially harmful materials shall be maintained in safe
20 and leak-proof containers.

21 D. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-
22 five (25) feet of a water body, except by a qualified professional in accordance with
23 state and federal laws.

24 E. New development shall provide stormwater management facilities designed,
25 constructed, and maintained in accordance with the latest version of the Washington
26 State Department of Ecology’s (Ecology) Stormwater Management Manual for
27 Eastern Washington, including the use of BMPs. Additionally, new development
28 shall implement low impact development techniques where feasible and necessary to
29 fully implement the core elements of the Surface Water Design Manual.

30 F. For development activities with the potential for adverse impacts on water quality or
31 quantity in a fish and wildlife habitat conservation area, a critical area report as
32 prescribed in Article V, Critical Areas, shall be prepared. Such reports should discuss
33 the project’s potential to exacerbate water quality parameters which are impaired and
34 for which Total Maximum Daily Loads (TMDLs) for that pollutant have been
35 established, and prescribe any necessary mitigation and monitoring.

36 G. All materials that may come in contact with water shall be constructed of materials,
37 such as untreated wood, concrete, approved plastic composites or steel, that will not
38 adversely affect water quality or aquatic plants or animals. Materials used for decking
39 or other structural components shall be approved by applicable state agencies for
40 contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.
41 Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is
42 prohibited in shoreline waterbodies.

1 **14.08.260 Public Access**

2 A. Applicants required to provide shoreline public access shall provide physical or visual
3 access, consistent with the City’s and other agencies management plans when
4 applicable, unless specifically exempted in this section. Examples of physical and
5 visual access are listed below.

- 6 1. Visual Access. Visual public access may consist of view corridors,
7 viewpoints, or other means of visual approach to public waters.
- 8 2. Physical Access. Physical public access may consist of a dedication of land or
9 easement and a physical improvement in the form of a walkway, trail,
10 bikeway, park, view platform, or other area serving as a means of physical
11 approach to public waters.

12 B. Existing shoreline public accesses shall be maintained. Except as provided in SMP
13 Section 14.08.260 (C)below, new uses shall provide for safe and convenient public
14 access to and along the shoreline where any of the following conditions are present:

- 15 1. New development is proposed by a public entity or on public lands;
- 16 2. The nature of the proposed use, activity, or development will likely result in
17 an increased demand for public access to the shoreline;
- 18 3. The proposed use, activity, or development is not a water-oriented or other
19 preferred shoreline use, activity or development under the Act, such as a non-
20 water-oriented commercial or recreational use;
- 21 4. The proposed use, activity, or development may block or discourage the use
22 of customary and established public access paths, walkways, trails, or
23 corridors; or
- 24 5. The proposed use, activity, or development will interfere with the public use,
25 activity and enjoyment of shoreline areas or waterbodies subject to the public
26 trust doctrine.
- 27 6. The proposed activity is a publicly financed shoreline erosion control measure
28 (when feasible).

29 C. New public access shall not be required where one or more of the following
30 conditions apply, provided such exceptions shall not be used to prevent implementing
31 the access and trail provisions mentioned in the City's and other agencies
32 management plans. In determining the infeasibility, undesirability, or incompatibility
33 of public access in a given situation, the City shall consider alternative methods of
34 providing public access, such as offsite improvements, viewing platforms, separation
35 of uses through site planning and design, and restricting hours of public access:

- 36 1. Proposed use, activity, or development only involves the construction of four
37 or fewer single-family or multifamily dwellings
- 38 2. The nature of the proposed use, activity, or development or the characteristics
39 of the site make public access requirements inappropriate due to health,
40 safety, or environmental hazards; the proponent shall carry the burden of

- 1 demonstrating by substantial evidence the existence of unavoidable or
2 unmitigable threats or hazards to public health, safety, or the environment that
3 would be created or exacerbated by public access upon the site;
- 4 3. An existing, new or expanded road or utility crossing through shoreline
5 jurisdiction shall not create the need for public access if the development
6 being accessed or served by the road or utility is located outside of shoreline
7 jurisdiction.
- 8 4. The proposed use, activity, or development has security requirements that are
9 not feasible to address through the application of alternative design features
10 for public access such as offsite improvements, viewing platforms, and
11 separation of uses through site planning and design;
- 12 5. The economic cost of providing for public access upon the site is
13 unreasonably disproportionate to the total long-term economic value of the
14 proposed use, activity, or development;
- 15 6. Safe and convenient public access already exists in the general vicinity of the
16 site, and/or the City and agencies' plans show adequate public access at the
17 property; or
- 18 7. Public access has reasonable potential to threaten or harm the natural
19 functions and native characteristics of the shoreline and/or is deemed
20 detrimental to threatened or endangered species under the Endangered Species
21 Act.
- 22 8. The site is within or part of an overall development, a binding site plan, or a
23 planned unit development which has previously provided public access
24 adequate to serve the project in full build-out through other application
25 processes
- 26 D. General Performance Standards
- 27 1. Uses, activities and developments shall not interfere with the regular and
28 established public use.
- 29 2. Shoreline substantial development or conditional uses shall minimize the
30 impact on views of shoreline waterbodies from public land or substantial
31 numbers of residences.
- 32 3. Proponents shall include within their shoreline applications an evaluation of a
33 proposed use, activity, or development's likely adverse impact on current
34 public access and future demands for access to the site. Such evaluation shall
35 consider potential alternatives and mitigation measures to further the policies
36 of this SMP and the provisions of this section.
- 37 4. Public access easements, trails, walkways, corridors, and other facilities may
38 encroach upon any buffers or setbacks required in Article V, Critical Areas, or
39 under other provisions of this SMP, provided that such encroachment does not
40 conflict with other policies and regulations of this SMP, and that no net loss of

- 1 ecological function can be achieved. Any encroachment into a buffer or
2 setback must be as close to the landward edge of the buffer as possible.
- 3 5. Public access facilities shall accommodate persons with disabilities unless
4 determined infeasible by the Shoreline Administrator.
- 5 E. Trails
- 6 1. Existing trails shall be maintained and enhanced.
- 7 2. Where public access is to be provided by dedication of public access
8 easements along the OHWM, the minimum width of such easements shall be
9 10 feet.
- 10 3. Pervious pavings are encouraged for all trails, and are required for trail
11 shoulders.
- 12 4. Trails shall be located, constructed, and maintained so as to avoid, to the
13 maximum extent possible, removal and other impacts to perennial native
14 vegetation consistent with the Habitat Management Plan.
- 15 5. Trails on private properties and not open to public use shall be up to 5 feet
16 wide or as required by the Americans with Disabilities Act (ADA)
17 regulations.
- 18 F. Off-site public access may be permitted by the City where it results in an equal or
19 greater public benefit than on-site public access, or when on-site limitations of
20 security, environment, compatibility, or feasibility are present. Off-site public access
21 may include, but is not limited to, adequate access on public lands in proximity to the
22 site, opportunity to increase public lands and access with adjoining or proximate
23 public area, enhancing a City-designated public property (e.g. existing public
24 recreation site; existing public access; road, abutting a body of water; or similar) in
25 accordance with City standards, or other related measures.
- 26 G. Signage
- 27 1. Signage to be approved by the Shoreline Administrator shall be conspicuously
28 installed along public access easements, trails, walkways, corridors, and other
29 facilities to indicate the public's right of use and the hours of operation. The
30 proponent shall bear the responsibility for establishing and maintaining such
31 signs.
- 32 2. The Administrator may require the proponent to post signage restricting or
33 controlling the public's access to specific shoreline areas. The proponent shall
34 bear the responsibility for establishing and maintaining such signage.
- 35

Article IV. Shoreline Modifications and Uses Regulations

14.08.300 Boating Facilities

A. General Requirements.

1. All boating uses, development, and facilities shall protect the rights of navigation.
2. Boating and moorage facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet federal, state and local requirements, as applicable.
3. Boating and moorage facilities shall locate on stable shorelines in areas where:
 - a. Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
 - b. Water depths are adequate to prevent the structure from grounding out at the lowest low water or else stoppers are installed to prevent grounding out.
4. Boating and moorage facilities shall not be located where wave action caused by boating use would increase bank erosion rates, unless “no wake” zones are implemented at the facility.
5. Boating uses and facilities shall be located far enough from public swimming beaches to alleviate any aesthetic or other adverse impacts, safety concerns and potential use conflicts.
6. In-water work shall be scheduled to protect biological productivity.
7. Accessory use facilities shall be:
 - a. Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
 - b. Located as far landward as possible while still serving their intended purposes.
8. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
9. When appropriate, boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
10. Boating and moorage facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state

1 agencies for use in water to avoid discharge of pollutants from wave splash,
2 rain or runoff. Wood treated with creosote, copper chromium, arsenic,
3 pentachlorophenol or other similarly toxic materials is prohibited for use in
4 moorage facilities.

5 11. Boating and moorage facilities shall be constructed of untreated materials,
6 such as untreated wood, approved plastic composites, concrete, or steel. (See
7 Section 14.08.250, Water Quality)

8 B. Boat Launch Facilities.

9 1. Private boat launch facilities are not allowed.

10 2. Public boat launch facilities may be allowed in areas consistent with City
11 planning documents.

12 3. Boat launch and haul-out facilities, such as ramps, marine travel lifts and
13 marine railways, and minor accessory buildings shall be designed and
14 constructed in a manner that minimizes adverse impacts on biological
15 functions, aquatic and riparian habitats, water quality, navigation and
16 neighboring uses.

17 4. Boat launch facilities shall be designed and constructed using
18 methods/technology that have been recognized and approved by state and
19 federal resource agencies as the best currently available.

20 **14.08.310 Commercial Development**

21 A. Water-dependent commercial development shall be given priority over non-water-
22 dependent commercial uses within shoreline environments. Secondly, water-
23 related and water-oriented uses shall be given priority over non-water-oriented
24 commercial uses.

25 B. Non-water-oriented commercial uses shall be allowed if they can demonstrate at least
26 one or more of the following:

27 1. The commercial use is part of a mixed-use project that includes water-
28 dependent uses and provides a significant public benefit with respect to the
29 objectives of the Act.

30 2. Navigability is severely limited at the proposed site, including opportunities
31 for kayaking or other water-oriented uses.

32 3. The commercial use is physically separated from the shoreline by another
33 property, public right-of-way or levee.

34 4. The commercial use is farther upland than 200 feet from the OHWM;
35 therefore, a water-oriented use is not a viable option.

36 C. Non-water-oriented uses may be located with water-oriented commercial uses
37 provided:

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

- 1 2. Water-dependent commercial uses as well as other water-oriented commercial
2 uses have preferential locations along the shoreline.
- 3 3. The underlying zoning district permits proposed uses together with
4 commercial uses.
- 5 4. Public access is provided and/or ecological restoration is provided as a public
6 benefit.
- 7 D. Review Criteria: The City shall utilize the following information in its review of all
8 commercial development applications:
 - 9 1. Whether there is a water-oriented aspect of the proposed commercial use or
10 activity when it is located within 200 feet of the OHWM.
 - 11 2. Whether the proposed commercial use is consistent with the Shoreline Use
12 and Modification Matrix of per Section 14.08.200 (I).
 - 13 3. Whether the application has the ability to enhance compatibility with the
14 shoreline environment and adjacent uses.
 - 15 4. Whether adequate provisions are made for public and private visual and
16 physical shoreline access.
 - 17 5. Whether the application makes adequate provisions to prevent adverse
18 environmental impacts and provide for shoreline ecological or critical area
19 mitigation, where appropriate.
 - 20 6. Commercial development shall be designed and maintained in a manner
21 compatible with the character and features of surrounding areas. The City may
22 prescribe and modify project dimensions, screening standards, setbacks, or
23 operation intensities to achieve this purpose.
 - 24 7. Eating and drinking facilities and lodging facilities shall be oriented to
25 provide views to the waterfront when such view is available from the site.
 - 26 8. Commercial uses shall provide for public access as a condition of approval,
27 unless such public access is demonstrated by the proponent to be infeasible or
28 inappropriate for the shoreline pursuant to Section 14.08.260, Public Access.
 - 29 9. Commercial uses shall provide for suitable measures to rehabilitate and
30 enhance the shoreline ecology as a condition of approval.
 - 31 10. Non-water-oriented commercial uses shall not be allowed over water in any
32 shoreline environment.
 - 33 11. All commercial loading and service areas shall be located upland or away
34 from the shoreline. Provisions shall be made to screen such areas with walls,
35 fences and landscaping and to minimize aesthetic impacts.
 - 36 12. Development shall be located, designed, and constructed in a manner that
37 ensures no net loss of shoreline ecological functions and without significant
38 adverse impacts on other preferred land uses and public access features.

1 **14.08.320 Docks and Piers**

2 A. Location Standards: Docks, swim floats, buoys shall be located according to the
3 following criteria:

4 1. Docks, swim floats, and buoys, shall be sited to avoid adversely impacting
5 shoreline ecological functions or processes and allowed only for water-
6 dependent uses or public access.

7 2. Docks, swim floats, and buoys shall be spaced and oriented in a manner that
8 minimizes hazards and obstructions to public navigation rights and corollary
9 rights thereto such as, but not limited to, fishing, swimming and pleasure
10 boating. The length of piers and docks shall be limited in constricted water
11 bodies to ensure navigability and public use. The County may require
12 reconfiguration of piers and docks proposals where necessary to protect
13 navigation, public use, or ecological functions.

14 3. Covered docks or other covered structures are not permitted waterward of the
15 OHWM.

16 B. General Design Standards: Docks, swim floats, and buoys shall be designed
17 according to the following criteria:

18 1. If moorage is to be provided or planned as part of a new residential
19 development of two or more waterfront dwelling units or lots or as part of a
20 subdivision or other divisions of land occurring after [the effective date of this
21 SMP] that results in less than five residential units, joint-use dock facilities
22 shall be required (Section 14.08.300, Boating Facilities), when feasible, rather
23 than allow individual docks for each residence. See SMP Section 14.08.300,
24 Boating Facilities, for regulations addressing community docks serving more
25 than four residential dwelling units. The following conditions apply:

26 a. New residential developments, including division of land, shall contain
27 a restriction on the face of the plat prohibiting individual docks and
28 identifying locations for joint-use or community dock facilities.
29 However, a single-use dock may be authorized if the applicant can
30 demonstrate that all other reasonable community or joint-use options
31 have been investigated and found infeasible.

32 b. A site for shared moorage at a joint-use dock should be owned in
33 undivided interest by property owners or managed by a homeowner's
34 association as a common easement within the residential development.

35 2. If moorage joint-use dock is provided, the applicant shall file at the time of
36 building permit submittal for the dock a legally enforceable joint use
37 agreement or other legal instrument that, at a minimum, addresses the
38 following:

39 a. Provisions for maintenance and operation;

40 b. Easements or tracts for joint-use access; and

41 c. Provisions for joint use for all benefiting parties.

- 1 3. All over- and in-water structures shall be constructed and maintained in a safe
2 and sound condition. Abandoned or unsafe structures or materials, including
3 treated wood, pilings, derelict structures, vessels, buoys, and equipment, shall
4 be repaired promptly by the owner or removed after obtaining any necessary
5 permits.
- 6 4. Lighting is discouraged unless required by a federal or state agency for
7 navigation or safety and security purposes. In instances where lighting is
8 required for these purposes, illumination levels shall be the minimum
9 necessary for safety.
- 10 5. Temporary moorages shall be allowed for vessels used in the construction of
11 shoreline facilities. The design and construction of temporary moorages shall
12 be such that upon termination of the project, the aquatic habitat in the affected
13 area can be returned to its original (pre-construction) condition within one
14 year at no cost to the environment or the public.
- 15 6. No skirting is allowed on any structure.
- 16 7. If a dock is provided with a safety railing, such railing shall meet International
17 Building Code requirements and shall be an open framework, following
18 appropriate safety standards, that does not unreasonably interfere with
19 shoreline views of adjoining properties.
- 20 8. Moorage facilities shall be marked with reflectors, or otherwise identified to
21 prevent unnecessarily hazardous conditions for water surface users during the
22 day or night. Exterior finish of all structures shall be generally non-reflective.
- 23 9. Private moorage for float planes may be permitted accessory to existing or
24 concurrently proposed moorage where construction and operation would not
25 adversely affect shoreline functions or processes, including wildlife use, or
26 interfere with navigation.
- 27 C. Dock Dimensional Standards:
 - 28 1. The following dimensional standards shall apply to all new docks serving four
29 or fewer residential dwellings. Deviations from the dimensional standards
30 must be approved through a Shoreline Variance.
 - 31 a. Width:
 - 32 i. Piers and floats shall not exceed 8 feet in width. Ramps shall
33 not exceed 4 feet in width.
 - 34 ii. Dock finger extensions shall not exceed 2 feet in width.
 - 35 b. Length:
 - 36 i. The length of the dock shall not exceed the length necessary in
37 order for the end of the dock to reach a minimum water depth
38 of four (4) feet measured at ordinary high water.
 - 39 c. Area:

- 1 i. The area of new docks shall be limited by the maximum width
2 and length allowed in a) and b) above. Only one float is
3 allowed per single-use dock. A maximum of two floats is
4 allowed for joint-use docks.
- 5 ii. 320 square feet for single use docks, excluding the ramp and all
6 associated appurtenances.
- 7 iii. 450 square feet for joint use docks, excluding the ramp and all
8 associated appurtenances.
- 9 d. Height: The bottom of any piers or the landward edge of any ramp
10 must be at least 1 foot above the OHWM. The freeboard height on all
11 floats must be at least 10 inches.
- 12 D. Dock Support Piles:
- 13 1. Piling shall be structurally sound and cured prior to placement in the water.
- 14 2. Pilings shall not be treated with pentachlorophenol, creosote, copper
15 naphthalene, chromate copper arsenate, or comparably toxic compounds.
- 16 3. Pilings shall not extend beyond the end of the dock.
- 17 4. Pilings shall not exceed 4 inches in diameter. If a piling is encased in a sleeve,
18 the piling plus sleeve diameter shall not exceed 5 inches. Piles up to 8 inches
19 in diameter may be approved by the Shoreline Administrator without a
20 Shoreline Variance if the designing engineer documents need for larger piles
21 for safety or structural reasons.
- 22 5. Pilings or piling sleeves shall be white in color.
- 23 E. Decking Materials:
- 24 1. Use of materials specified for marine use is required.
- 25 2. Flotation materials shall be permanently encapsulated.
- 26 F. Replacement of Existing Docks¹: Proposals involving replacement of the entire
27 existing private dock or 75 percent or more of the dock support piles are considered a
28 new moorage facility and must meet the dimensional, materials and mitigation based
29 on mitigation sequencing in Section 14.08.230 (Environmental Protection) for new
30 private docks as described in Subsection 14.08.320 (B), except the Shoreline
31 Administrator may approve an alternative design if it meets all of the following
32 criteria:
- 33 1. As applicable, Federal agencies have already approved the proposal;
- 34 2. The total square footage of the replacement structure is no larger than the
35 existing dock;

¹ Nonconforming private moorage facilities are governed by regulations found in Section 14.08.720, Nonconforming Structures.

- 1 3. The maximum width for the portion of the dock located within 30 feet of the
2 OHWM shall not be greater than the width allowed for new docks under
3 14.08.320 (C) above;
- 4 4. Replacement piles shall meet the spacing and material specifications under
5 14.08.320 (D) above; and
- 6 5. Decking and deck materials shall meet the specifications under 14.08.320 (E)
7 above.
- 8 G. Additions to Private Dock: Proposals involving the modification and/or enlargement
9 of existing private docks must comply with the following measures:
 - 10 1. The applicant must demonstrate to the satisfaction of the responsible local
11 government that there is a need for the enlargement of an existing dock.
12 Proposals that demonstrate an enlargement is necessary due to safety concerns
13 or inadequate depth of water will be considered.
 - 14 2. Enlarged portions of docks must comply with the dimensional, design,
15 materials and mitigation standards for new private docks as described in
16 Section 14.08.320. Dock additions that result in the completed structure
17 exceeding the area limits for reasons not specifically allowed above may only
18 be approved through a Shoreline Variance.
- 19 H. Repair of Existing Private Dock:
 - 20 1. Repair proposals which replace 75 percent or greater of the existing dock-
21 support piles are considered replacement docks and must comply with
22 requirements for Replacement Docks.
 - 23 2. All proposed replacement piles shall be the minimum size allowed by site-
24 specific engineering or design considerations.
 - 25 3. Pentachlorophenol, creosote, chromated copper arsenate or comparably toxic
26 compounds shall not be utilized to repair piles or as treatments for
27 replacement piles.
 - 28 4. Repair proposals which replace 50 percent or more of the decking must use
29 grating as specified above.
 - 30 5. Other repairs to existing legally established moorage facilities where the
31 nature of the repair is not described in the above subsections shall be
32 considered minor repairs and are permitted, consistent with all other
33 applicable codes and regulations. If the cumulative repair proposed over a
34 three-year period exceeds thresholds established for reconstructed or repaired
35 piers listed above in SMP Subsection (H), the current repair proposal shall be
36 reviewed under those replacement provisions.

14.08.330 Dredging and Dredge Material Disposal

- 38 A. Dredging.
 - 39 1. Dredging and dredge disposal shall be prohibited.

1 **14.08.340 Fill and Excavation**

- 2 A. Fill waterward of the OHWM, except fill to support ecological restoration and
3 enhancement, requires a Conditional Use Permit and may be permitted only when:
- 4 1. In conjunction with water-dependent or public access uses allowed by this
5 SMP;
- 6 2. In conjunction with a bridge or transportation facility of statewide significance
7 for which there is a demonstrated public need and where no feasible upland
8 sites, design solutions, or routes exist;
- 9 3. In conjunction with implementation of an interagency environmental clean-up
10 plan to clean up and dispose of contaminated sediments;
- 11 4. Disposal of dredged material considered suitable under, and conducted in
12 accordance with, the Dredged Material Management Program of the
13 Washington Department of Natural Resources; or
- 14 5. In conjunction with any other environmental restoration or enhancement
15 project.
- 16 6. Necessary to construct an approved in-water structure as provided in Section
17 14.08.350 (Groins and Weirs)
- 18 B. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in
19 reference to fills. Fills for approved road development in wetlands shall be permitted
20 only if pile or pier supports are proven not feasible.
- 21 C. Fill upland and waterward of the OHWM, including in non-watered side channels,
22 shall be permitted only where it is demonstrated that the proposed action will not:
- 23 1. Result in significant ecological damage to water quality, fish, and/or wildlife
24 habitat;
- 25 2. Significantly reduce public access to the shoreline or significantly interfere
26 with shoreline recreational uses.
- 27 D. Fill shall be of the minimum amount and extent necessary to accomplish the purpose
28 of the fill.
- 29 E. Excavation waterward of the OHWM or within wetlands shall be considered dredging
30 for purposes of this Program.
- 31 F. Fills or excavation shall not be located where shore stabilization will be necessary to
32 protect materials placed or removed. Disturbed areas shall be immediately stabilized
33 and revegetated, as applicable.
- 34 G. Fills, beach nourishment and excavation shall be designed to blend physically and
35 visually with existing topography whenever possible, so as not to interfere with long
36 term appropriate use including lawful access and enjoyment of scenery.

37 **14.08.350 Groins and Weirs**

- 38 A. Breakwaters shall be prohibited.

- 1 B. New, expanded or replacement groins and weirs shall only be permitted if the
2 applicant demonstrates that the proposed groin or weir will not result in a net loss of
3 shoreline ecological functions, and the structure is necessary for water-dependent
4 uses, public access, shoreline stabilization, or other specific public purposes.
- 5 C. Groins and weirs shall require a Conditional Use Permit, except when such structures
6 are installed to protect or restore ecological functions, such as installation of groins
7 that may eliminate or minimize the need for hard shoreline stabilization.
- 8 D. Groins and weirs shall be located, designed, constructed and operated consistent with
9 mitigation sequencing principles, including avoiding critical areas, as provided in
10 Sections 14.08.230 and Article V of this Chapter.

11 **14.08.360 Mining**

- 12 A. Mining shall be prohibited.

13 **14.08.370 Recreational Development**

14 A. General Preferences

- 15 1. Recreational uses and facilities shall include features that relate to access,
16 enjoyment, and use of the City of Soap Lake's shorelines.
- 17 2. Both passive and active shoreline recreation uses are allowed consistent with
18 the City's Comprehensive Plan.
- 19 3. Water-oriented recreational uses and activities are preferred in shoreline
20 jurisdiction. Water-dependent recreational uses shall be preferred as a first
21 priority and water-related and water-enjoyment recreational uses as a second
22 priority.
- 23 4. Existing passive recreational opportunities, including nature appreciation,
24 non-motorized trails, environmental interpretation and native habitat
25 protection, shall be maintained.
- 26 5. Preference shall be given to the development and enhancement of public
27 access to the shoreline to increase fishing, kayaking and other water-related
28 recreational opportunities.

29 B. General Performance Standards

- 30 1. The potential adverse impacts of all recreational uses shall be mitigated and
31 adequate provisions for shoreline rehabilitation shall be made part of any
32 proposed recreational use or development to ensure no net loss of shoreline
33 ecological function.
- 34 2. Sites with fragile and unique shoreline conditions, such as high-quality
35 wetlands and wildlife habitats, shall be used only for non-intensive recreation
36 activities, such as trails, viewpoints, interpretive signage, and similar passive
37 and low-impact facilities that result in no net loss of shoreline ecological
38 function, and do not require the construction and placement of permanent
39 structures.

- 1 3. For proposed recreation developments that require the use of fertilizers,
2 pesticides, or other toxic chemicals, the proponent shall specify the BMPs to
3 be used to prevent these applications and resultant leachate from entering
4 adjacent waters.
- 5 4. Recreational developments shall be located and designed to preserve, enhance
6 or create scenic views and vistas.
- 7 5. In approving shoreline recreational developments, the City shall ensure that
8 the development will maintain, enhance, or restore desirable shoreline features
9 including unique and fragile areas, scenic views, and aesthetic values. The
10 City may, therefore, adjust or prescribe project dimensions, on-site location of
11 project components, intensity of use, screening, lighting, parking, and setback
12 requirements.
- 13 6. Signs indicating the public's right to access shoreline areas shall be installed
14 and maintained in conspicuous locations at all points of access.
- 15 7. Recreational developments shall provide facilities for non-motorized access to
16 the shoreline such as pedestrian and bicycle paths, and equestrian, as
17 applicable. New motorized vehicle access shall be located and managed to
18 protect riparian, wetlands and shrub steppe habitat functions and value.
- 19 8. Proposals for recreational developments shall include a landscape plan
20 indicating how native, self-sustaining vegetation is incorporated into the
21 proposal to maintain ecological functions. The removal of on-site native
22 vegetation shall be limited to the minimum necessary for the development of
23 permitted structures or facilities, and shall be consistent with provisions of
24 Section 14.08.240, Shoreline Vegetation Conservation and Article V, Critical
25 Areas.
- 26 9. Accessory uses and support facilities such as maintenance facilities, utilities,
27 and other non-water-oriented uses shall be consolidated and located in upland
28 areas outside shoreline, wetland, and riparian buffers unless such facilities,
29 utilities, and uses are allowed in shoreline buffers based on the regulations of
30 this SMP.
- 31 10. Recreational facilities shall make adequate provisions, such as screening,
32 landscaping buffer strips, fences and signs, to prevent trespass upon adjacent
33 properties and to protect the value and enjoyment of adjacent or nearby
34 private properties and natural areas, as applicable.
- 35 11. Recreational structures are only allowed to be built over water when they
36 provide public access or facilitate a water-dependent use and shall be the
37 minimum size necessary to accommodate the permitted activity.
- 38 12. Recreational developments shall make adequate provisions for:
39 a. Both on-site and off-site access
40 b. Appropriate water supply and waste disposal methods, and
41 c. Security and fire protection.

- 1 13. Structures associated with recreational development shall not exceed 35 feet
2 in height, except for as noted in Section 14.08.210, Development Standards
3 when such structures document that the height beyond 35 feet will not
4 obstruct the view of a substantial number of adjoining residences.
- 5 14. Recreational development shall minimize effective impervious surfaces in
6 shoreline jurisdiction and incorporate low-impact development techniques.

7 **14.08.380 Residential Development**

- 8 A. Single-family residential development is a preferred use when it is developed in a
9 manner consistent with pollution control and preventing damage to the natural
10 environment.
- 11 B. Residential development shall be located and constructed to result in no net loss of
12 shoreline ecological function. No net loss of shoreline ecological functions shall be
13 ensured through application of shoreline buffers specified in Article V of this Chapter
14 to avoid future stabilization and other provisions of this SMP related to shoreline
15 stabilization, vegetation management, and on-site sewage disposal.
- 16 C. Lots for residential use shall have a maximum density consistent with the City's
17 Comprehensive Plan.
- 18 D. Accessory uses and structures shall be located outside of the riparian buffer, unless
19 the structure is or supports a water-dependent use. Storage structures to support
20 water-related uses are not water-dependent uses and therefore, shall be located
21 outside of the riparian buffer.
- 22 E. All residential development shall be located or designed in such a manner as to
23 prevent measurable degradation of water quality from stormwater runoff. Adequate
24 mitigation measures shall be required and implemented where there is the reasonable
25 potential for such adverse effect on water quality.
- 26 F. New shoreline residences and appurtenant structures be sufficiently set back from
27 steep slopes and shorelines vulnerable to erosion so that structural improvements,
28 including bluff walls and other that shoreline stabilization and flood control structures
29 are not necessary to protect proposed residences and associated uses.
- 30 G. New floating residences and over-water residential structures shall be prohibited in
31 shoreline jurisdiction.
- 32 H. New residential development shall connect with sewer systems, when available.
- 33 I. All new residential development shall be required to meet the vegetation management
34 provisions contained in Section 14.08.240, Shoreline Vegetation Conservation and
35 Section 14.08.560, Fish and Wildlife Habitat Conservation Areas.

36 **14.08.390 Shoreline Habitat and Natural Systems Enhancement Projects**

- 37 A. Shoreline restoration and enhancement activities designed to restore or enhance
38 shoreline ecological functions and processes and/or shoreline features should be
39 targeted toward meeting the needs of sensitive and/or regionally important plant, fish,
40 and wildlife species, and shall be given priority.

- 1 B. Shoreline restoration, enhancement, and mitigation activities designed to create
2 dynamic and sustainable ecosystems to assist the City in achieving no net loss of
3 shoreline ecological functions are preferred.
- 4 C. Restoration and enhancement activities shall be carried out in accordance with an
5 approved shoreline restoration plan, and in accordance with the provisions of this
6 SMP.
- 7 D. To the extent possible, restoration, enhancement, and mitigation activities shall be
8 integrated and coordinated with other parallel natural resource management efforts,
9 such as those identified in the shoreline restoration plan.
- 10 E. Habitat and expansion, restoration, and enhancement projects may be permitted
11 subject to required state or federal permits when the applicant has demonstrated that:
 - 12 1. The project will not adversely impact spawning, nesting, or breeding ~~in and in~~
13 fish and wildlife habitat conservation areas;
 - 14 2. Fish and wildlife habitat conservation areas will not be adversely affected;
 - 15 3. Water quality will not be degraded; and
 - 16 4. Impacts to critical areas and buffers will be avoided and where unavoidable,
17 minimized and mitigated
- 18 F. The City shall review the projects for consistency with this SMP in an expeditious
19 manner and shall issue its decision along with any conditions within forty-five (45)
20 days of receiving all materials necessary to review the request for exemption from the
21 applicant (see Section 14.08.870, Exemptions from Shoreline Substantial
22 Development Permits).

23 **14.08.400 Shoreline Stabilization**

- 24 A. Shoreline restoration and enhancement activities designed to restore shoreline
25 ecological functions and processes and/or shoreline features should be targeted
26 toward meeting the needs of sensitive and/or regionally important plant, fish, and
27 wildlife species, and shall be given priority.
- 28 B. New shoreline stabilization for new development is prohibited unless it can be
29 demonstrated that reasonable use of a lot or parcel legally created prior to date of
30 SMP update adoption is precluded without shore protection or is necessary to restore
31 ecological functions or hazardous substance remediation.
- 32 C. Proposed designs for new or expanded shoreline stabilization shall be designed in
33 accordance with applicable state guidelines, must use the most current, accurate, and
34 complete scientific and technical information available, must document that
35 alternative solutions are not feasible or do not provide sufficient protection; must
36 demonstrate that future stabilization measures would not be required on the project
37 site or adjacent properties; and be certified by a qualified professional.
- 38 D. Land subdivisions and lot line adjustments shall be designed to ensure that future
39 development of the newly created lots will not require structural stabilization for
40 subsequent development to occur.

- 1 E. New or expanded structural shoreline stabilization is prohibited except when
2 necessity is demonstrated consistent with the requirements of WAC 173-26-
3 231(3)(a)(iii). Necessity is demonstrated through conclusive evidence documented by
4 a geotechnical analysis that there is a significant possibility that the structure will be
5 damaged within three (3) years as a result of shoreline erosion caused by wind/wave
6 action or other hydraulic forces, and only when significant adverse impacts are
7 mitigated to ensure no net loss of shoreline ecological functions and/or processes.
- 8 F. Replacement of an existing shoreline stabilization structure with a similar structure is
9 permitted if there is a demonstrated need to protect existing primary uses, structures
10 or public facilities including roads, bridges, railways, irrigation and utility systems
11 from erosion caused by wave action; provided, that the existing shoreline stabilization
12 structure is removed from the shoreline as part of the replacement activity.
13 Replacement walls or bulkheads shall not encroach waterward of the ordinary high
14 water mark or existing structure unless the facility was occupied prior to January 1,
15 1992, and there are overriding safety or environmental concerns. Proposed designs
16 for new or expanded shore stabilization shall be in accordance with applicable state
17 guidelines and certified by a qualified professional.
- 18 G. Where a geotechnical analysis confirms a need to prevent potential damage to a
19 primary structure, but the need is not as immediate as three (3) years, the analysis
20 may still be used to justify more immediate authorization for shoreline stabilization
21 using bioengineering approaches.
- 22 H. Shoreline stabilization projects that are part of a fish habitat enhancement project
23 meeting the criteria of RCW 77.55.181 will be authorized through a Shoreline
24 Exemption. Stabilization projects that are not part of such a fish enhancement project
25 will be regulated by this SMP.
- 26 I. Small-scale or uncomplicated shoreline stabilization projects (for example, tree
27 planting projects) shall be reviewed by a qualified professional to ensure that the
28 project has been designed using best available science.
- 29 J. Large-scale or more complex shoreline stabilization projects (for example, projects
30 requiring fill or excavation, placing objects in the water, or hardening the bank) shall
31 be designed by a qualified professional using best available science. The applicant
32 may be required to have a qualified professional oversee construction or construct the
33 project.
- 34 K. New stabilization structures, when found to be necessary, will implement the
35 following standards:
- 36 1. Limit the size of the project to the minimum amount necessary;
 - 37 2. Include measures to ensure no net loss of shoreline ecological functions;
 - 38 3. Use biotechnical bank stabilization techniques unless those are demonstrated
39 to be infeasible or ineffective before implementing “hard” structural
40 stabilization measures.

1 **14.08.410 Transportation: Trails, Roads, and Parking**

- 2 A. New or expanded motor vehicle transportation facilities shall not be located within
3 shoreline jurisdiction, unless:
- 4 1. The proponent demonstrates that no feasible upland alternatives exist;
 - 5 2. The project represents the minimum development necessary to serve another
6 specific, localized, and permitted shoreline use; or
 - 7 3. In the case of a water crossing, the proponent demonstrates that the project is
8 necessary to further a substantial public interest.
- 9 B. When new roads or road expansions are unavoidable in shoreline jurisdiction,
10 proposed transportation facilities shall be planned, located, and designed to achieve
11 the following:
- 12 1. Meet mitigation sequencing provisions of Section 14.08.230, Environmental
13 Protection;
 - 14 2. Avoid adverse impacts on existing or planned water-oriented uses;
 - 15 3. Set back from the OHWM to allow for a usable shoreline area for vegetation
16 conservation and any preferred shoreline uses unless infeasible;
 - 17 4. Minimize grading, vegetation clearing, and alterations of the natural
18 topography; and
 - 19 5. Use BMPs for preventing erosion and degradation of surface water quality.
- 20 C. Improvements to existing motor vehicle facilities shall not interfere with pedestrian
21 and bicycle access, and shall whenever possible, provide for expansion and
22 enhancement of pedestrian and bicycle transportation facilities.
- 23 D. The development, improvement, and expansion of pedestrian and bicycle
24 transportation facilities are allowed within all environments. Such transportation
25 facilities are a preferred use wherever they are compatible with the natural character,
26 resources, and ecology of the shoreline.
- 27 E. Pedestrian and bicycle transportation facilities shall be designed, located, and
28 constructed consistent with the policies and regulations for public access as provided
29 in Section 14.08.260, Public Access of this SMP.
- 30 F. Parking facilities are not a water-dependent use and shall only be permitted in the
31 shoreline jurisdiction when located 50 feet upland of the edge of riparian vegetation
32 corridor and to support an authorized use where it can be demonstrated to the
33 satisfaction of the Shoreline Administrator that there are no feasible alternative
34 locations away from the shoreline. Parking as a primary use shall not be allowed in
35 any shoreline jurisdiction. Accessory parking facilities shall be subject to the same
36 permit type as the primary use.
- 37 G. Transportation and parking facilities shall be planned to avoid or minimize adverse
38 effects on unique or fragile shoreline features and shall not result in a net loss of
39 shoreline ecological functions or adversely affect existing or planned water-
40 dependent uses. Parking facilities shall be located upland of the principal structure,

1 building, or development they serve, and preferably outside of shoreline jurisdiction,
2 except:

- 3 1. Where the proponent demonstrates that an alternate location would reduce
4 adverse impacts on the shoreline and adjacent uses;
- 5 2. Where another location is not feasible; and/or
- 6 3. Except when Americans with Disability Act (ADA) standards require
7 otherwise.

8 In such cases, the applicant shall demonstrate use of measures to reduce adverse
9 impacts of parking facilities in shoreline jurisdiction, such as low impact development
10 techniques, buffering, or other measures approved by the Shoreline Administrator

- 11 H. Parking facilities shall be landscaped in a manner to minimize adverse visual and
12 aesthetic impacts on adjacent shoreline and abutting properties.
- 13 I. All forms of transportation facilities shall, wherever feasible, consolidate water
14 crossings and make joint use of rights-of-way with existing or planned future primary
15 utility facilities and other transportation facility modalities.
- 16 J. Improvements to all existing transportation facilities shall provide for the
17 reestablishment and enhancement of natural vegetation along the shoreline when
18 appropriate.

19 **14.08.420 Utilities**

- 20 A. Expansion of existing primary utility facilities within shoreline jurisdiction must
21 demonstrate:
 - 22 1. The expansion is designed to protect adjacent shorelands from erosion,
23 pollution, or other environmentally detrimental factors during and after
24 construction.
 - 25 2. The project is planned to fit existing natural topography as much as practical
26 and avoid alteration of the existing natural environment.
 - 27 3. Debris, overburden, and other construction waste materials shall be disposed
28 of so as to prevent erosion or pollution of a waterbody.
- 29 B. New primary utility facilities and expansions shall include provisions to control the
30 quantity and quality of surface water runoff to natural waterbodies, using BMPs to
31 retain natural flow rates. A maintenance program to ensure continued proper
32 functioning of such new facilities shall be required.
- 33 C. Applications for installation of utility facilities shall include the following (at a
34 minimum):
 - 35 1. Reason why the utility facility must be in shoreline jurisdiction;
 - 36 2. Alternative locations considered and reasons for their elimination;
 - 37 3. Location of the same, similar, or other utility facilities in the vicinity of the
38 proposed project;

- 1 4. Proposed method(s) of construction;
- 2 5. Plans for reclamation of areas to be disturbed during construction;
- 3 6. Landscape plans;
- 4 7. Methods to achieve no net loss of ecological function and minimize clearing
- 5 of native vegetation; and
- 6 8. Consistency with City comprehensive plans for utilities, where such plans
- 7 exist.
- 8 D. Where feasible, utilities shall be consolidated within a single easement and utilize
- 9 existing rights-of-way. Any utility located within property owned by the utility which
- 10 must of necessity cross shoreline jurisdiction shall be designed and operated to
- 11 reserve the option of general public recreational usage of the right-of-way in the
- 12 future. This option shall be exercised by the public only where:
- 13 1. The public will not be exposed to dangers from the utility equipment; and
- 14 2. The utility itself will not be subjected to unusual risks of damage by the
- 15 public.
- 16 E. In areas where utilities must cross shoreline jurisdiction, they shall do so by the most
- 17 direct route feasible, unless such a route would negatively affect an environmentally
- 18 critical area, or obstruct public access to the shoreline. See Section 14.08.560, Fish
- 19 and Wildlife Habitat Conservation Areas for regulations governing crossings of non-
- 20 shoreline streams located in shoreline jurisdiction.
- 21 F. Utility facilities shall be designed and located in a manner that protects scenic views
- 22 and minimizes adverse aesthetic impacts.
- 23 G. New utilities which must be constructed across shoreline jurisdiction in previously
- 24 undisturbed areas must submit a mitigation plan demonstrating the restoration of the
- 25 shoreline to at least its existing condition. Upon completion of utility installation or
- 26 maintenance, any disturbed areas shall be regraded to be compatible with the natural
- 27 terrain of the area and revegetated with appropriate native plants to prevent erosion.
- 28 H. All underwater pipelines or those paralleling the waterway transporting liquids
- 29 potentially injurious to aquatic life or water quality shall be prohibited, unless no
- 30 other alternative exists to serve a public interest. In those limited instances where
- 31 permitted, shut-off valves shall be provided at both sides of the waterbody except for
- 32 public sanitary sewers of a gravity or siphon nature. In all cases, no net loss of
- 33 ecological functions shall be maintained.
- 34 I. Where utilities cannot cross a shoreline waterbody via a bridge or other existing water
- 35 crossing, the utilities shall evaluate site-specific habitat conditions and demonstrate
- 36 whether impacts can be mitigated ~~for~~ or ~~negatively impacted~~ substrate, or whether
- 37 utilities will need to be bored beneath the waterbody such that the substrate is not
- 38 disturbed. Construction of pipelines placed under aquatic areas shall be placed in a
- 39 sleeve to avoid the need for excavation in the event of a failure in the future.

- 1 J. Minor trenching to allow the installation of necessary underground pipes or cables is
2 allowed if no alternative, including boring, is feasible, and if:
 - 3 1. Impacts on fish and wildlife habitat are avoided to the maximum extent
4 possible.
 - 5 2. The utility installation shall not increase or decrease the natural rate, extent, or
6 opportunity of channel migration.
 - 7 3. Appropriate BMPs are employed to prevent water quality impacts or other
8 environmental degradation.
- 9 K. Utility installation and maintenance operations shall be conducted in a manner that
10 does not negatively affect surface water quality or quantity. Applications for new
11 utility projects in shoreline jurisdiction shall include a list of BMPs to protect water
12 quality.
- 13

Article V. Critical Areas

14.08.500 Authority, Chapter and Procedures

- A. The City of Soap Lake shall regulate in the shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more critical areas, consistent with the provisions of Article V – Critical Areas.

14.08.510 Purpose – Goals – Policies

- A. Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare in areas associated with specific resource lands and critical areas. It is further intended to promote the enhancement and preservation of critical areas by avoiding or minimizing adverse impacts from construction and development. In addition to compliance with the Shoreline Management Act (RCW 90.58), this chapter shall also comply with the state of Washington Growth Management Act through the classification and designation of critical areas and the development and implementation of regulations to protect critical areas in the public’s interest and welfare.
- B. Goals. Preserve and protect the functions and values of the area’s natural features and maintain a harmonious relationship between the man-made community and the natural environment.
- C. Policies.
 - 1. Designate critical areas.
 - 2. Coordinate conservation strategies and efforts with appropriate state, federal, and private agencies to take advantage of technical and financial assistance while avoiding duplication of efforts.
 - 3. Regulate development within critical areas and/or buffers to ensure public safety, reduce financial impacts, and protect critical areas to ensure no net loss of ecological function.
 - 4. Allow for open space and recreational use of critical areas where such use does not negatively impact the critical areas.

14.08.520 Applicability and Critical Areas Map

- A. Applicability. The provisions of this chapter apply only to lands designated as critical areas located within the shoreline jurisdiction within Soap Lake corporate limits and urban growth area.
 - 1. Properties containing critical areas are subject to this chapter.
 - 2. When the requirements of this chapter are more stringent than those of other Soap Lake codes and regulations, the requirements of this chapter shall apply.
 - 3. Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this chapter.

- 1 4. The City shall not approve any land use, building or site improvement permit
2 or otherwise issue any authorization to alter the condition of any land or
3 vegetation, or to construct or alter any structure or improvement in, over, or
4 on a critical area or associated buffer, if the proposed activity does not comply
5 with the requirements of this chapter.
- 6 B. Critical Areas. Critical areas potentially located within the City include:
 - 7 1. Critical aquifer recharge areas;
 - 8 2. Fish and wildlife habitat conservation areas;
 - 9 3. Frequently flooded areas
 - 10 4. Geologically hazardous areas;
 - 11 5. Wetlands.
- 12 C. Buffers. Critical areas include the protective buffer areas to lands identified as critical
13 areas.
- 14 D. Reference Maps and Inventories. The distribution of critical areas within the City are
15 described and displayed in reference materials. These reference materials are intended
16 for general information only and do not depict site-specific designations. These
17 reference materials include but are not limited to the following:
 - 18 1. Maps
 - 19 a. Any maps created through a critical areas review process;
 - 20 b. WDFW priority habitats and species maps, as amended;
 - 21 c. USGS topographic quadrangle maps;
 - 22 d. Flood insurance rate maps (FEMA), as amended;
 - 23 e. Flood boundary and floodway maps (FEMA), as amended;
 - 24 f. Aerial photographs;
 - 25 g. USFWS national wetland inventory maps, as amended;
 - 26 h. Maps prepared to support the SMP Inventory & Characterization
27 report;
 - 28 i. Columbia Basin groundwater management area maps, as amended;
 - 29 j. Columbia Basin irrigation project topography and retracement maps
30 from 1939 through 1943 and from 1960, as well as other
31 preconstruction and construction maps developed for the project;
 - 32 k. Previously completed maps in the vicinity of a permit application.
 - 33 l. Soil Survey of Grant County, Washington by the United States
34 Department of Agriculture, Soil Conservation Service
 - 35 m. National Wetland Inventory maps
 - 36 2. Documents

- 1 a. Flood insurance study for Grant County, as amended;
- 2 b. City of Soap Lake comprehensive plan, as amended;
- 3 c. Natural Resources Conservation Service Soil Survey for Grant
- 4 County;
- 5 ~~d. Washington State Wetlands Identification and Delineation Manual~~
- 6 ~~(WDOE No. 96-94), as amended;~~
- 7 ~~d. U.S. Army Corps of Engineers. 2008. Regional Supplement to the~~
- 8 ~~Corps of Engineers Wetland Delineation Manual: Arid West Region,~~
- 9 ~~or as later revised;~~
- 10 e. Washington State Wetlands Rating System for Eastern Washington
- 11 (Revised, Publication No. 04-06-015, August 2004), or as later
- 12 revised;
- 13 ~~f. US Army Corps wetland delineation data sheets, and as amended~~
- 14 ~~g.f. Management Recommendations for Washington’s Priority Habitats~~
- 15 ~~and Species (WDFW) as amended;~~
- 16 ~~h.g. Management Recommendations for Washington’s Priority Habitats –~~
- 17 ~~Wetlands (WDFW) as amended;~~
- 18 ~~i.h. Information and reference documents in the SMP Inventory, Analysis,~~
- 19 ~~and Characterization report, as applicable.~~
- 20 ~~j.i. Previously completed special reports conducted in the vicinity of a~~
- 21 ~~permit application;~~
- 22 ~~k.j. Columbia Basin Ground Water Management Area Plan, as amended.~~
- 23 E. Use of Existing Procedures and Laws. The following laws and procedures shall be
- 24 used to implement this chapter:
- 25 1. Soap Lake Municipal Code. Development activity regulated by SLMC Titles
- 26 16, Subdivisions, and 17, Zoning, that will occur within a protected critical
- 27 area or critical area buffer within the shoreline jurisdiction shall comply with
- 28 the provisions of this chapter.
- 29 2. The State Environmental Policy Act (SEPA), Chapter 43.21C RCW.
- 30 Development activity that is likely to have a significant adverse impact upon
- 31 identified critical areas regulated by this chapter shall not be categorically
- 32 exempt from SEPA review and shall demonstrate compliance with this
- 33 chapter.
- 34 F. State and Federal Agency Review. Regulated activities subject to this chapter shall be
- 35 routed to appropriate state and federal agencies for review and comment as required
- 36 through the SEPA review process.
- 37 G. Applicability by Activity. The level of review required for uses or activities is
- 38 established under this chapter.

- 1 1. Exempt (E). Activities or uses that are exempt require no review and do not
2 need to meet the standards of this chapter.
- 3 2. Review Required (RR). Activities and uses that are categorized as “review
4 required” must comply with the standards of the chapter but no special report
5 is needed. Determination of compliance with this chapter shall be determined
6 through the review process required for the underlying development permit
7 application.
- 8 3. Critical Area Report (CAR). For activities where a critical area report is
9 required, the applicant must submit a report consistent with this chapter and
10 with the underlying development application and will submit additional
11 application fees consistent with the adopted fee schedule.
- 12 4. The Shoreline Administrator shall have the discretion to determine whether
13 the proposed activity may adversely impact protected critical areas and/or
14 their buffers and shall assign the appropriate level of review, exempt, review
15 required, or critical areas report. The decision of the Shoreline Administrator
16 may be appealed to the hearing examiner.

17 **14.08.530 Allowed Uses**

- 18 A. Approval Required. Unless the requirements of this chapter are met, Soap Lake shall
19 not grant any approval or permission to alter the condition of any land, water, or
20 vegetation, or to construct or alter any structure or improvement regulated through the
21 following: building permit, commercial or residential; binding site plan; franchise
22 right-of-way construction permit; site development permit; right-of-way permit;
23 shoreline permits; short subdivision; use permits; subdivision; utility permits; or any
24 subsequently adopted permit or required approval not expressly exempted by this
25 chapter.
- 26 B. Compliance with Federal or State Requirements. Compliance with these regulations
27 does not remove an applicant’s obligation to comply with applicable provisions of
28 any other federal, state, or local law or regulation.
- 29 C. Review Process. The uses listed in this section may be approved, subject to a review
30 process, if the proposed development activity meets the standards in SLMC
31 14.08.610, Development standards, and SLMC 14.08.620, Mitigation.
- 32 D. Allowed Uses. The City may allow the following uses on critical areas and within
33 buffer areas subject to the review and mitigation requirements of this chapter:
 - 34 1. Pervious trails for nonmotorized uses;
 - 35 2. Water-dependent uses;
 - 36 3. Removal of diseased or dangerous trees, as determined by the City public
37 works director or the removal of invasive or nuisance plants;
 - 38 4. Construction, replacement, or alteration of a single-family dwelling unit in a
39 residential zoning district on a legal lot of record, created prior to the effective
40 date of the ordinance codified in this chapter so long as the replacement or
41 expansion achieves no net loss of ecological function, conforms to the height

1 regulations, lot coverage and dimension standards and other design provisions
2 for the zone in which the residence is located. The dwelling unit shall be used
3 solely for single-family purposes. Approval is subject to a review process. The
4 City may modify underlying zoning district dimensional standards applicable
5 by up to a 50 percent adjustment, if necessary to protect critical areas;

6 **14.08.540 Exemptions**

7 A. Exempt Activities for Critical Areas are described in Section 14.08.870.

8 **14.08.550 Critical Area – Critical Aquifer Recharge Areas**

9 A. Purpose. It is the intent of the City of Soap Lake to promote public health and safety
10 by acknowledging the importance of preserving critical aquifer recharge areas located
11 within the shoreline jurisdiction. These areas serve the vital function of replenishing
12 groundwater resources which, in Eastern Washington, account for a major share of
13 the water for irrigation, municipal, industrial and domestic uses. Potable water is an
14 essential life-sustaining element. Much of Washington’s water comes from
15 groundwater supplies. Preventing contamination is necessary to avoid exorbitant
16 costs, hardships and potential physical harm to people.

17 B. Goals and Policies. The following reflect the goals and policies of the community:

18 1. Goal. The City seeks to protect the public health, safety and welfare of its
19 residents by providing protection of potable water sources.

20 2. Policies.

21 a. As data becomes available, identify, map and maintain critical
22 groundwater supply areas, aquifer recharge areas, and/or unconfined
23 aquifers used for potable water.

24 b. Prohibit the placement, storage generation and/or disposal of
25 hazardous materials, including fuel, within a critical aquifer recharge
26 area.

27 c. Divisions of land within aquifer recharge areas will be evaluated for
28 their impact on groundwater quality.

29 d. The City will support and encourage the Washington State Department
30 of Ecology efforts to enforce the decommissioning requirements for
31 unused wells.

32 C. Classification and Designation – The “Columbia Basin Ground Water Management
33 Area Plan” (GWMA). Primary focus is to reduce nitrate in groundwater of the
34 GWMA; significant scientific data has been developed that identifies, among other
35 things, where there are groundwater areas in the City of Soap Lake that may be
36 susceptible to contaminant loading. For the purposes of this code, those areas with
37 exposed basalt complex basalt flows are “critical aquifer recharge areas.” Any
38 activities, particularly municipal, industrial, commercial and agricultural activities,
39 that involve the collection and storage of substances that, in sufficient quantity during
40 an accidental or intentional release, would result in the impairment of the aquifer
41 water to be used as potable drinking water liquids shall be regulated by this chapter.

- 1 Furthermore, the City water plan identifies well-head protection areas which shall be
2 considered a part of critical aquifer recharge areas (CARA).
- 3 D. Management Recommendations and Standards. The following management
4 recommendations and standards will apply to development proposals determined to
5 be located within critical aquifer recharge areas, as defined and described herein:
- 6 1. The appropriate agency(ies) will develop educational information to assist
7 with informing people with shallow wells how best to manage and protect
8 their potable water source.
 - 9 2. The City will support the GWMA and local conservation districts in their
10 efforts to educate agricultural producers about the best management practices
11 for protecting groundwater quality.
 - 12 3. Development activities within a critical aquifer recharge area that have a high
13 potential for contamination shall be required to do a hydrological study, using
14 best available science, and shall develop and implement protection measures
15 to prevent contamination.
 - 16 4. Any changes in land use or type of new facilities where substances of
17 moderate risk are used, stored, treated or handled; or which produce moderate
18 risk waste shall be designed to prevent the release of any such materials into
19 the groundwater.
 - 20 5. Surface impoundments, defined by Chapter 173-303 WAC, shall be designed
21 by a professional engineer and constructed with an impermeable liner and
22 other components as appropriate to prevent discharge of any material on the
23 ground surface and/or into the groundwater system. Surface impoundments
24 shall be designed and constructed in accordance with applicable governing
25 law, and have a minimum excess capacity equal to 120 percent of the
26 projected volume of liquid to be contained including intentional and
27 unintentional stormwater capture.
 - 28 6. All developments, as defined and described herein, authorized within an
29 aquifer recharge area shall comply with the following standards:
 - 30 a. Connection to a public sanitary sewer system shall be required.
 - 31 b. The connection to an approved public water service shall be required.
 - 32 c. The City will support and encourage the Washington State Department
33 of Ecology efforts to enforce the well-casing requirements.
 - 34 d. Stormwater detention and retention facilities shall be designed using
35 best available science and management practices to separate chemical
36 and biological pollutants from the water.
 - 37 e. An analysis shall be conducted to assess the impact to groundwater
38 quality from the potential of nitrate loading to the groundwater.
 - 39 f. Areas highly susceptible of transporting contaminants to the
40 groundwater (i.e., natural drainages, springs, wetlands, etc.), as

1 determined by the review authority, shall be designated as critical
2 aquifer recharge areas.

3 g. All impervious surfaces shall maintain an appropriate setback from
4 areas identified as being highly susceptible and no amount of
5 stormwater runoff shall be directed towards the susceptible area(s).

6 7. Parks, Schools and Recreation Facilities. Fertilizer and pesticide management
7 practices of schools, parks, other recreation facilities and similar uses shall use
8 best management practices as prescribed by the Washington State University
9 Cooperative Extension Services.

10 8. All major and minor developments containing a wellhead protection area or
11 critical aquifer recharge area shall have an informational note placed on the
12 face of plat stating “this area is located within an aquifer recharge area. Best
13 management practices shall be used for the containment of stormwater and the
14 application of pesticides and fertilizers.”

15 **14.08.560 Critical area – Fish and Wildlife Habitat Conservation Areas**

16 A. Purpose and Objectives. The City of Soap Lake recognizes the importance of
17 protecting future annexed or discovered fish and wildlife habitat conservation areas
18 located within the shoreline jurisdiction while at the same time encouraging
19 continued economic development of the City, including the continuation of
20 agriculture. Implementation of this section is directed toward preserving resources by
21 steering incompatible development away from these areas and/or by providing
22 adequate and appropriate mitigation measures to development that alleviate negative
23 impacts. The following reflect the goals and policies of the community.

24 B. Goal. Protect fish and wildlife habitat areas as important natural resource areas.

25 C. Policies.

26 1. The City will consider the impacts of new development on the quality of land,
27 wildlife and vegetative resources as part of its environmental review process
28 and require any appropriate mitigation measures.

29 2. Land uses adjacent to naturally occurring ponds and other fish and wildlife
30 habitat areas will not negatively impact the habitat areas. If a change in land
31 use occurs, adequate buffers based on the most current, accurate, and
32 complete scientific or technical information available will be provided to
33 protect the habitat areas.

34 D. Objectives. The following objectives are the guiding factors in the application of this
35 section to future development in the City of Soap Lake:

36 1. Identify and map categories of fish and wildlife habitat conservation areas,
37 based in part on information supplied by Washington Department of
38 Wildlife’s Priority Habitat and Species Program, and other sources.

39 2. Use the most current, accurate, and complete scientific or technical
40 information available.

- 1 3. Cooperate with federal, state and private agencies, and individuals who have
2 primary authority to manage specific fish and wildlife habitat conservation
3 areas within certain parts of the City.
- 4 4. Encourage preservation of adequate size blocks of land necessary for species
5 survival and corridor areas that allow for migratory travel.
- 6 5. The City recognizes that species of wildlife in this locality are in a state of
7 continuing flux, and a prudent understanding of this phenomenon is vital in
8 guiding decision-makers to balance conservation of wildlife species with
9 promotion of wise, desirable growth.
- 10 6. Development decisions will serve to protect local wildlife needs and reflect
11 the values and desires of the public and achieve no net loss of ecological
12 function.
- 13 7. The City recognizes the need for a degree of flexibility in weighing the
14 significance of different areas of fish and wildlife habitat conservation.
15 Specifically, the magnitude of protection for priority habitat areas is
16 anticipated to be more pronounced than that which addresses important habitat
17 areas.
- 18 E. Identification. According to WAC 365-190-080, “fish and wildlife habitat
19 conservation” means land management for maintaining species in suitable habitat
20 within their natural geographical distribution so that isolated subpopulations are not
21 created. This does not mean maintaining all individuals of all species and all times,
22 but it does mean cooperative and coordinated land use planning is critically important
23 among counties and cities in a region. In some cases, intergovernmental cooperation
24 and coordination may show that it is sufficient to ensure a species will usually be
25 found in certain regions across the state.
- 26 1. “Areas of fish and wildlife habitat conservation” are defined as:
 - 27 a. Areas with which federal or state endangered, threatened and sensitive
28 species of fish, wildlife or plants have a primary association; or
 - 29 b. Habitats and species of local importance, which could include areas
30 with state listed monitor or candidate species, or federally listed
31 candidate species, or species with high recreational value (game, etc.)
32 that have primary association; or
 - 33 c. Naturally occurring ponds under 20 acres and their submerged aquatic
34 beds that provide fish or wildlife habitat; or
 - 35 d. Waters of the state; or
 - 36 e. Lakes, ponds, streams and rivers planted with game fish by a
37 governmental entity (these include water bodies planted under
38 auspices of a federal, state or local program, or which support
39 important fish species as identified by Washington Department of
40 Wildlife); or

- 1 f. Federal, state and private natural area preserves and natural resource
2 conservation areas.
- 3 2. The City of Soap Lake allows for the nomination of species/habitats of local
4 importance, which process shall be included in the amendment process
5 identified in SLMC 14.08.950, Amendments to the Shoreline Master Program.
6 In order to nominate species/habitats of local importance as candidates for
7 designation within the category of important habitat areas, an individual or
8 organization must:
- 9 a. Demonstrate a need for special consideration;
- 10 b. Propose relevant management strategies considered effective and
11 within the scope of this chapter;
- 12 c. Provide species habitat location(s) on a map (scale 1:24,000).
- 13 3. In order to accommodate the needs and desires of the residents, public input
14 shall be required to include species and/or habitats in the important habitat
15 area classification identified in this section. Where the habitats and species
16 classified as priority habitat area are responsive, concurrently, with official
17 changes in federal and/or state threatened or endangered listings/de-listings, to
18 include or un-include species and/or habitats in the important habitat area
19 classification, these regulations must be amended through a formal process for
20 nomination as described in this regulation.
- 21 4. There are no “anadromous fisheries” within the City of Soap Lake.
- 22 F. Classification. Fish and wildlife habitat conservation areas will be classified and
23 designated as follows, based on a variety of data sources as identified herein:
- 24 1. Priority Habitat Areas. Seasonal ranges and habitat elements with which
25 federal and/or state listed sensitive, endangered or threatened species have a
26 primary association and which, if altered, may reduce the likelihood that the
27 species will maintain and reproduce over the long term;
- 28 a. Critical freshwater habitats include those portions of Soap Lake and
29 flood plains designated as such by the Shoreline Administrator.
- 30 2. Important Habitat Areas. Habitat areas that are associated with and actively
31 utilized by federal and/or state candidate species and species designated as
32 being of local importance according to the nomination process.
- 33 G. Determination Process. The City of Soap Lake will review each development permit
34 application to determine if the provisions of this section will be applied to the project.
35 In making the determination, the City may use any of the reference maps and/or
36 inventories identified in (the General Provisions Chapter) of this regulation. The
37 following progressive steps will occur upon a determination by the City that a fish
38 and/or wildlife habitat conservation area may exist on a site proposed for a
39 development permit.
- 40 1. Step One. Staff will determine if there are any possible fish and/or wildlife
41 habitat conservation areas on site. This determination shall be made following

1 a review of information available, as outlined in SLMC Title 13, as well as a
2 site inspection and/or a consultation with a qualified fish and/or wildlife
3 biologist, if deemed necessary by the City. If no fish and/or wildlife habitat
4 conservation area is determined to be present, this section shall not apply to
5 the review of the proposed development.

- 6 2. Step Two. If it is determined by staff that a fish and/or wildlife habitat
7 conservation area may be present, a site inspection and consultation with
8 federal and/or state wildlife agency personnel shall be conducted to more
9 definitively determine if a fish and/or wildlife habitat conservation area exists
10 on the site. If no, this section shall not apply to the review of the proposed
11 development. If yes, the applicant shall submit a habitat boundary survey and
12 a habitat management and mitigation plan, as provided for in this section.

13 H. Designation.

- 14 1. If an area that is subject to a development permit application is determined to
15 be a priority habitat area after going through the determination process
16 described herein, it shall be designated as such, and a habitat boundary survey
17 and a habitat management and mitigation plan shall be developed as provided
18 for in this section.
- 19 2. If an area that is subject to a development permit application is determined to
20 be an important habitat area after going through the determination process
21 described herein, it shall be designated as such, and habitat boundary survey
22 and a habitat management and mitigation plan may be required as provided
23 for in this section. Designation as either a priority or important habitat area is
24 not intended to deny development opportunities; rather, it is aimed at either
25 steering growth to more suitable areas where fish and wildlife values will not
26 be unduly compromised, or developing appropriate and adequate mitigation
27 measures to alleviate potential negative impacts.

28 I. Fish/Wildlife Habitat Boundary Survey.

- 29 1. If it is determined through the process identified herein that a priority habitat
30 area exists on a site that is the subject of a development permit application, a
31 fish/wildlife habitat boundary survey and evaluation shall be conducted by a
32 fish or wildlife biologist, as appropriate, who is knowledgeable of wildlife
33 habitat within Grant County. The wildlife habitat boundary shall be field
34 staked by the biologist and surveyed by a land surveyor for disclosure on all
35 final plats, maps, etc.
- 36 2. If it is determined through the process identified herein that an important
37 habitat area exists on a site that is the subject of a development permit
38 application, a fish/wildlife habitat boundary survey and evaluation may be
39 required if the proposal meets the definition of “major development” as
40 described within this regulation, and if the proposal is determined to have a
41 probable adverse impact on the habitat area. When required, all provisions of
42 the habitat boundary survey and evaluation described in this section shall be
43 followed.

- 1 3. The Shoreline Administrator may waive the requirement for the survey for
2 minor development if:
 - 3 a. The proposed development is not within the extended proximity of the
4 associated habitat;
 - 5 b. There is adequate information available on the area proposed for
6 development to determine the impacts of the proposed development
7 and appropriate mitigating measures; and
 - 8 c. The applicant provides voluntary deed restrictions that are approved
9 by the City.
- 10 4. The fish/wildlife habitat boundary and any associated buffer shall be
11 identified on all plats, maps, plans and specifications submitted for the project.
- 12 J. Fish/Wildlife Habitat Buffers.
 - 13 1. Riparian buffers within Soap Lake are provided in Table 14.08.210,
14 Development Standards.
- 15 K. Administrative Buffer Width Averaging.
 - 16 2. The required buffer widths established in this SMP may be modified by the
17 Shoreline Administrator for a development on existing legal lots of record in
18 place at the time of adoption of this Program, in accordance with the
19 provisions of this section only where the applicant demonstrates all of the
20 following:
 - 21 a. Averaging is necessary to avoid an extraordinary hardship to the
22 applicant caused by circumstances peculiar to the property;
 - 23 b. The designated buffer area contains variations in sensitivity to
24 ecological impacts due to existing physical characteristics or the
25 character of the buffer varies in slope, soils, or vegetation;
 - 26 c. The total area contained within the buffer after averaging is no less
27 than that contained within the standard buffer prior to averaging;
 - 28 d. The ~~minimum~~ buffer width may not be reduced by more than 25
29 percent of the standard buffer at its narrowest point shall not be less
30 than thirty five (35) percent of the buffer width established under this
31 SMP; and
 - 32 e. The buffer width averaging does not result in a net loss of ecological
33 function.
- 34 L. Shoreline Buffer Reductions. Shoreline buffers may be administratively modified
35 where a legally established road or other type of continuous development crosses or
36 extends along a shoreline or critical area buffer and is wider than 20 feet. The
37 Shoreline Administrator may approve a modification of the minimum required buffer
38 width to the waterward edge of the improved continuous development provided the
39 upland side of the continuous development areas outlined below:

- 1 a. Does not provide additional protection of the shoreline water body or
2 stream; and
- 3 b. Provides little (less than 20%) to no biological, geological or
4 hydrological buffer functions relating to the riparian and upland
5 portions of the buffer.
- 6 M. Standard Buffer Reduction. Reductions of up to thirty-five (35) percent of the
7 standard buffer may be approved if the applicant demonstrates to the satisfaction of
8 the Shoreline Administrator that a mitigation plan developed by a qualified
9 professional pursuant to Section 14.08.590 (D) indicates that enhancing the buffer (by
10 removing invasive plants or impervious surfaces, planting native vegetation,
11 installing habitat features or other means) will result in a reduced buffer that functions
12 at a higher level than the existing standard buffer.
- 13 N. In Fill Development. In an effort to facilitate in-fill development in approved plats,
14 the County may approve requests to reduce the standard shoreline buffers up to a
15 maximum of 50 percent for a new single-family residence and appurtenant structures
16 in accordance with the following criteria:
- 17 1. Where there are single family residences within 150 feet on either side of the
18 proposed residence in an existing plat, the buffer shall be determined as the
19 greater of one of the following three options: 1) a common line drawn
20 between the nearest corners of the nearest residence, 2) a common line
21 calculated by the average of the nearest residences' existing buffer, or 3) a 50
22 percent reduction of the standard buffer.
- 23 2. Where there is only a residence located within 150 feet on one side of the
24 proposed residence in an existing plat, the standard buffer shall be determined
25 as the greater of a common line drawn between nearest corner of the nearest
26 residence and the nearest point of the standard buffer on the adjacent vacant
27 lot, a common line calculated by the average of the nearest residence's
28 setback and the standard buffer for the adjacent vacant lot, or a 50 percent
29 reduction of the standard buffer.
- 30 O. Fish/Wildlife Habitat Management and Mitigation Plan. A fish/wildlife habitat
31 management and mitigation plan is required for all proposed developments
32 determined to be within a priority habitat area. For those proposed developments
33 determined to be within important habitat area, a fish/wildlife habitat management
34 and mitigation plan may be required if it is determined by the City that the proposal
35 will have probable adverse impacts on the habitat area.
- 36 1. When required, a fish/wildlife habitat management and mitigation plan shall
37 be prepared by a biologist who is knowledgeable of wildlife habitat within
38 Grant County.
- 39 2. The fish/wildlife habitat management and mitigation plan shall demonstrate,
40 when implemented, that there is no net loss of ecological function of habitat.
- 41 3. Based on the most current, accurate, and complete scientific and technical
42 information available, the fish/wildlife habitat management and mitigation

- 1 plan shall identify how impacts from the proposed project shall be mitigated,
2 as well as the necessary monitoring and contingency actions for the continued
3 maintenance of the habitat conservation area and any associated buffer.
- 4 4. Describe the relationship of the site to surrounding topographic, cultural and
5 historic features.
- 6 5. The fish/wildlife habitat management and mitigation plan shall include maps
7 and narrative descriptions that address at least the following items, and in the
8 following sequence:
- 9 a. Avoiding the impact altogether by not taking a certain action or parts
10 of an action;
- 11 b. Minimizing impacts by limiting the degree or magnitude of the action
12 and its implementation, by using appropriate technology, or by taking
13 affirmative steps to avoid or reduce impacts;
- 14 c. Rectifying the impact by repairing, rehabilitating or restoring the
15 affected environment;
- 16 d. Compensating for the impact by replacing, enhancing or providing
17 substitute resources or environments.
- 18 6. A plan by the applicant that explains how any adverse impacts created by the
19 proposed development will be mitigated, including without limitation the
20 following techniques:
- 21 a. Use of any federal, state or local management recommendations which
22 have been developed for the species or habitats in the area;
- 23 b. Establishment of appropriate and adequate buffer zones;
- 24 c. Preservation of critically important plants and trees;
- 25 d. Limitation of access to the habitat conservation area;
- 26 e. Seasonal restriction of construction activities;
- 27 f. Establishment of a timetable for periodic review of the plan.
- 28 7. A detailed discussion of ongoing management practices which will protect the
29 habitat conservation area after the project site has been fully developed,
30 including proposed monitoring, contingency, maintenance and surety
31 programs.
- 32 8. Activities or uses which would strip the shoreline of vegetative cover, cause
33 substantial erosion or sedimentation or affect aquatic life, should be
34 prohibited.
- 35 9. The Shoreline Administrator may waive the requirement for the habitat
36 management and mitigation plan for minor development if:
- 37 a. The proposed development is not within the 25-foot extended
38 proximity of the associated habitat;

- 1 b. There is adequate information available on the area proposed for
- 2 development to determine the impacts of the proposed development
- 3 and appropriate mitigating measures; and
- 4 c. The applicant provides voluntary deed restrictions that are approved
- 5 by the City.

14.08.570 Critical area – Frequently Flooded Areas

- 7 A. Purpose and Objectives. As of the adoption of the ordinance codified in this chapter,
- 8 there are no FEMA floodplains in the City of Soap Lake’s shoreline jurisdiction.
- 9 However, it is the intent of the City to recognize and diminish potential hazards that
- 10 may be caused by future annexations in areas where severe and costly flooding is
- 11 anticipated to occur. Based on historical observation and information collected by the
- 12 Federal Emergency Management Agency, the City endorses a cautious posture that
- 13 limits construction in areas located within zones designated to be flood prone. This
- 14 decision stems from local, as well as state and federal, understanding that
- 15 development limitation in these areas helps to serve the health, safety and public
- 16 welfare of the people of the City of Soap Lake.

- 17 B. The following reflect the goals and policies of the community:
 - 18 1. Goals. Protect the frequently flooded areas that are known to be critical parts
 - 19 of the natural drainage system by limiting and controlling potential alterations
 - 20 and/or obstructions to those areas.

 - 21 2. Policies.
 - 22 a. Discourage land use practices that may impede the flow of floodwater
 - 23 or cause danger to life or property. This includes, but is not limited to,
 - 24 filling, dumping, storage of materials, structures, buildings, and any
 - 25 other works which, when acting alone or in combination with other
 - 26 existing or future uses, would cause damaging flood heights and
 - 27 velocities by obstructing flows.

 - 28 b. Maintain and add catch basins or similar measures, as needed to
 - 29 protect the health, safety, and welfare of residents and the
 - 30 environment.

- 31 C. Classification. Classification of frequently flooded areas should include, at a
- 32 minimum, the 100-year floodplain designations of the Federal Emergency
- 33 Management Agency and the National Flood Insurance Program. The following
- 34 categories of frequently flooded areas established for the purpose of classification are:
 - 35 1. Floodways. The channel of a stream, plus any adjacent floodplain areas, that
 - 36 must be kept free of encroachment in order that the base flood is carried
 - 37 without substantial increases in flood heights.

 - 38 2. Floodplains. The floodway and special flood hazard areas.

 - 39 3. Special Flood Hazard Areas. The area adjoining the floodway which is subject
 - 40 to a one percent or greater chance of flooding in any given year, as identified

1 in the Grant County Flood Insurance Study (July 26, 1977), and determined
2 by the Federal Insurance Administration.

3 D. Designation. All lands, shorelines and waters which are currently identified within the
4 100-year floodplain in the Federal Emergency Management Agency entitled “The
5 Flood Insurance Study for the County of Grant,” dated July 26, 1977, with
6 accompanying Flood Insurance Rate and Boundary Maps, are designated as
7 frequently flooded areas. If and when this study becomes updated to reflect new
8 conditions, designation of frequently flooded areas will include the changes.

9 **14.08.580 Critical area – Geologically hazardous areas.**

10 A. Purpose. It is the intent of the City to reduce the threat posed to the health and safety
11 of its citizens from commercial, residential or industrial development that may be
12 sited in areas of significant geologic hazard. In some cases, it is recognized that risks
13 from geologic hazards can be reduced or mitigated to acceptable levels through
14 engineering design or modified construction practices. In other cases where
15 technological efforts are not sufficient to reduce associated risks, building is best
16 avoided. The following reflect the goals and policies of the community:

- 17 1. Goal. Provide appropriate measures to either avoid or mitigate significant
18 risks that are posed by geologic hazard areas to public and private property
19 and to public health and safety.
- 20 2. Policies. When probable significant adverse impacts from geologically
21 hazardous areas are identified during the review of a development application,
22 documentation that fully addresses these potential impacts and identifies
23 alternative mitigation measures to eliminate or minimize the impacts will be
24 required.

25 B. Identification. Geological hazards pose a threat to public health and safety. Adequate
26 identification and development standards reduce these risks. Hazards of concern that
27 exist in the City of Soap Lake’s shoreline jurisdiction include any land containing
28 soils, geology or slopes that meet any of the following criteria:

- 29 1. Areas with slopes in excess of 45 percent;
- 30 2. Areas with all three of the following characteristics:
 - 31 a. Soil types with the properties of the Ringold formation (clay);
 - 32 b. Areas with the potential for water loading; and
 - 33 c. Slopes in excess of 15 percent;
- 34 3. Soils within the City that are especially subject to wind erosion;
- 35 4. Slopes having gradients steeper than 80 percent subject to rock fall during
36 seismic shaking; and/or
- 37 5. Areas highly susceptible to liquefaction from seismic activity. Seismic
38 hazards shall be as identified in the Washington State Department of Natural
39 Resources seismic hazard and liquefaction susceptibility maps for Eastern
40 Washington and other geologic resources.

- 1 C. Classification and Designation.
- 2 1. All geologically hazardous areas shall be classified and designated according
- 3 to the level of risk associated with the hazardous area as established through
- 4 an approved geologic hazard risk assessment and/or a geotechnical report
- 5 submitted by the applicant in accordance with this chapter. On-site inspections
- 6 and the information sources identified in this chapter shall be used as guidance
- 7 in identifying the presence of potential geologically hazardous areas.
- 8 2. Geologically hazardous areas in the City of Soap Lake shall be classified
- 9 according to the following system:
- 10 a. Level 1. Critical hazard areas shall be those areas with a known risk.
- 11 b. Level 2. Awareness hazard areas shall be those areas that have a
- 12 suspected risk.
- 13 D. Determination Process. The City will review each development permit application to
- 14 determine if the provisions of this section will be applied to the project. In making the
- 15 determination, the City may use any of the reference maps and/or inventories
- 16 identified in SLMC 14.08.520.
- 17 1. Step One. Staff will determine if there are any possible geologically hazardous
- 18 areas on site as defined herein. This determination will be made following a
- 19 review of information available and a site inspection if appropriate. If no
- 20 hazard area is determined to be present, this section shall not apply to the
- 21 review of the proposed development.
- 22 2. Step Two. If it is determined that a geologically hazardous area may be
- 23 present, the applicant shall submit a geologic hazard area risk assessment
- 24 prepared by a licensed engineer or a licensed geologist. The risk assessment
- 25 will include a description of the geology of the site and the proposed
- 26 development; an assessment of the potential impact the project may have on
- 27 the geologic hazard; an assessment of what potential impact the geologic
- 28 hazard may have on the project; appropriate mitigation measures, if any; and a
- 29 conclusion as to whether further analysis is necessary. The assessment will be
- 30 signed by and bear the seal of the engineer or geologist that prepared it. No
- 31 further analysis shall be required if the geologic hazard area risk assessment
- 32 concludes that there is no geologic hazard present on the site, nor will the
- 33 project affect or be affected by any potential geologic hazards that may be
- 34 nearby.
- 35 3. Step Three. If the professional preparing the risk assessment in step two
- 36 concludes that further analysis is necessary, the applicant shall submit a
- 37 geotechnical report as provided for herein.
- 38 E. A proposed development cannot be approved if it is determined by the geotechnical
- 39 report that either the proposed development or adjacent properties will be at risk of
- 40 damage from the geologic hazard, or that the project will increase the risk of
- 41 occurrence of the hazard, and there are no adequate mitigation measures to alleviate
- 42 the risks.

F. Geotechnical Report.

1. All geotechnical reports shall be prepared by a civil engineer licensed to practice in the state of Washington.
2. A geotechnical report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations on the suitability of the site to be developed. The report shall evaluate the actual presence of geologic conditions giving rise to the geologic hazard, and an evaluation of the safety of the proposed project, and identification of construction practices, monitoring programs and other mitigation measures necessary. A bibliography of scientific citations shall be included as necessary.
3. The geotechnical report shall include a certification from the engineer preparing the report, including the engineer’s professional stamp and signature, stating all of the following:
 - a. The risk of damage from the project, both on and off site, is minimal;
 - b. The project will not materially increase the risk of occurrence of the hazard;
 - c. The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard; and
 - d. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.
4. All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

14.08.590 Critical area – Wetlands

- A. Purpose and Objectives - It is the intent of the City of Soap Lake to promote public health and welfare by instituting local measures to preserve naturally occurring wetlands located within the shoreline jurisdiction that may be determined by site specific analysis or annexed in the future. These areas may serve a variety of vital functions, including, but not limited to: flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education and scientific research.
- Protection measures should strive to spare identified value and function of wetlands that may be in jeopardy from new development proposals. However, regulations shall not prohibit uses legally existing on any parcel prior to their adoption.
- The City recognizes that various legal means and levels of government already address protection of wetlands. Effort will be made to avoid unnecessary duplication

1 and to promote cooperation and coordination whenever possible. The following
2 reflect the goals and policies of the community:

- 3 1. Goal. The City’s wetlands will be protected to the greatest extent possible
4 because they provide important functions that protect and improve the quality
5 of life.
- 6 2. Policies.
 - 7 a. Use of innovative techniques should be encouraged to protect
8 wetlands.
 - 9 b. For development proposals which encompass wetland areas or their
10 buffers there will be a site-specific review process required to
11 determine impacts of development.

12 B. Classification and Designation. Wetlands shall be identified and delineated using the
13 U.S. Army Corps of Engineers (2008) Regional Supplement to the Corps of
14 Engineers Wetland Delineation Manual: Arid West Region or as subsequently
15 updated by the U.S. Army Corps of Engineers or Washington State Department of
16 Ecology. ~~most current, accurate, and complete scientific or technical information~~
17 ~~available, such as the Washington State Wetlands Identification and Delineation~~
18 ~~Manual.~~ Wetland delineations are valid for 10 years, after such date the City shall
19 determine whether additional assessment is necessary. Classification and rating of
20 wetlands will be done using the ~~Washington State Wetlands Rating System for~~
21 ~~Eastern Washington.~~ Washington State Department of Ecology (Ecology)
22 Washington State Wetlands Rating System for Eastern Washington (Annotated
23 Version), Publication #04-06-018, June 2014, as may be amended in the future
24 (hereinafter referred to as the Ecology Wetlands Rating System);

25 1. Wetland Rating Classes shall be as follows:

- 26 a. Category I Wetlands: Those wetlands scoring a “Category I” rating
27 under the ~~Washington State Department of Ecology (Ecology)~~
28 Wetlands Rating System; ~~Washington State Wetlands Rating System~~
29 for Eastern Washington (Annotated Version), Publication #04-06-018,
30 June 2014, as may be amended in the future (hereinafter referred to as
31 the Ecology Wetlands Rating System);
- 32 b. Category II Wetlands: Those wetlands scoring a “Category II” rating
33 under the Ecology Wetlands Rating System;
- 34 c. Category III Wetlands: Those wetlands scoring a “Category III” rating
35 under the Ecology Wetlands Rating System; and
- 36 e.d. Category IV Wetlands: Those wetlands scoring a “Category IV” rating
37 under the Ecology Wetlands Rating System

38 C. ~~Category IV Wetlands: Those wetlands scoring a “Category IV” rating under the~~
39 ~~Ecology Wetlands Rating System.~~ Determination Process. The City of Soap Lake will
40 review each development permit application to determine if the provisions of this
41 section will be applied to the project. In making the determination, the City may use

1 any of the reference maps and/or inventories identified in this chapter. The following
2 progressive steps will occur upon a determination that a wetland area may exist on a
3 site proposed for a development permit.

4 1. Step One. City staff will determine if there are any possible wetland areas on
5 site. This determination shall be made following a review of information
6 available, as well as a site inspection and/or a consultation with a qualified
7 wetland biologist, if deemed necessary by the City. If no regulated wetland
8 area is determined to be present, this section shall not apply to the review of
9 the proposed development.

10 2. Step Two. If it is determined that wetland areas may be present, a site
11 inspection and consultation with a qualified wetland biologist shall be
12 conducted to more definitively determine if a regulated wetland area exists on
13 the site. If no, this section shall not apply to the review of the proposed
14 development. If yes, the applicant shall conduct a wetland delineation and
15 shall submit a wetland management and mitigation plan, as provided for in
16 this section.

17 D. Wetland Management and Mitigation Plan.

18 1. As determined necessary as provided for in this section, a wetland
19 management and mitigation plan shall be required to achieve no net loss of
20 ecological function.

21 2. “Vernal pools” are wetlands that are less than 4,000 square feet and meet at
22 least two of the following criteria:

23 a. Its only source of water is rainfall or snowmelt from a small
24 contributing basin and has no groundwater input.

25 b. Wetland plants are typically present only in the spring and the summer
26 vegetation is typically upland annuals.

27 c. The soils in the wetland are shallow (less than 30 cm or one foot deep)
28 and are underlain by an impermeable layer such as basalt or clay.

29 d. Surface water is present for less than 120 days during the wet season.

30 e. Vernal pools that are both near other aquatic resources and relatively
31 undisturbed during February and March are considered Category 2
32 wetlands.

33 3. Wetland management and mitigation plans shall be prepared by a professional
34 wetland scientist with sufficient experience as a wetlands professional
35 including delineating wetlands using the state or federal manuals, preparing
36 wetland reports, conducting function assessments and developing and
37 implementing mitigation plans.

38 4. The wetland management and mitigation plan shall demonstrate, when
39 implemented, that there shall be no net loss of the ecological function or
40 acreage of the wetland.

- 1 5. The wetland management and mitigation plan shall identify how impacts from
2 the proposed project shall be mitigated, as well as the necessary monitoring
3 and contingency actions for the continued maintenance of the wetland and its
4 associated buffer.
- 5 6. The wetland management and mitigation plan shall contain a report that
6 includes, but is not limited to, the following information:
- 7 a. Location maps, regional 1:24,000 and local 1:4,800;
- 8 b. A map or maps indicating the boundary delineation of the wetland; the
9 width and length of all existing and proposed structures, utilities,
10 roads, easements; wastewater and stormwater facilities; adjacent land
11 uses, zoning districts and comprehensive plan designations;
- 12 c. A description of the proposed project including the nature, density and
13 intensity of the proposed development and the associated grading,
14 structures, utilities, stormwater facilities, etc., in sufficient detail to
15 allow analysis of such land use change upon the identified wetland;
- 16 d. A detailed description of vegetative, faunal and hydrologic conditions,
17 soil and substrate characteristics, and topographic features within and
18 surrounding the wetland;
- 19 e. A detailed description of vegetative, faunal and hydrologic conditions,
20 soil and substrate characteristics, and topographic features within any
21 compensation site;
- 22 f. A detailed description of the proposed project’s effect on the wetland,
23 and a discussion of any federal, state or local management
24 recommendations which have been developed for the area;
- 25 g. A discussion of the following mitigation alternatives as they relate to
26 the proposal. The mitigation alternatives shall be proposed in a manner
27 that considers the following in order of priority from (i) through (iv):
- 28 i. Avoiding the impact altogether by not taking a certain action or
29 parts of an action;
- 30 ii. Minimizing impacts by limiting the degree or magnitude of the
31 action and its implementation, by using appropriate
32 technology, or by taking affirmative steps to avoid or reduce
33 impacts;
- 34 iii. Rectifying the impact by repairing, rehabilitating or restoring
35 the affected environment;
- 36 iv. Compensating for the impact by replacing, enhancing or
37 providing substitute resources or environments;
- 38 h. A plan by the applicant which explains how any adverse impacts
39 created by the proposed development will be mitigated, including
40 without limitation the following techniques:

- 1 i. Establishment of buffer zones;
- 2 ii. Preservation of critically important plants and trees;
- 3 iii. Limitation of access to the wetland area;
- 4 iv. Seasonal restriction of construction activities;
- 5 v. Establishment of a monitoring program within the plan;
- 6 vi. Drainage and erosion control techniques;
- 7 i. A detailed discussion of ongoing management practices which will
- 8 protect the wetland after the project site has been fully developed,
- 9 including proposed monitoring, contingency, maintenance and surety
- 10 programs for the time period necessary to establish that the
- 11 performance standards have been met, but for not less than five years;
- 12 j. All reports will be provided in an electronic format (word processor)
- 13 and all geographic entities (maps, etc.) will be provided in a geocoded
- 14 format for use in GIS systems (ArcView, MapInfo, AutoCAD, etc.).
- 15 7. Mitigation ratios shall be used when impacts to wetlands cannot be avoided.
- 16 The mitigation ratios by wetland type are as follows:

Table 14.08.590600 (D)(7): Mitigation Ratios for Eastern Washington

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal Pool	2:1 Compensation must be seasonally ponded wetland	4:1 Compensation must be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible ²	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-base

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
Category I Alkali	Not considered possible ²	6:1 Rehabilitation of an alkali wetland	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case
Category I Bog	Not considered possible ²	6:1 Rehabilitation of a bog	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case

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

² Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Reference:

Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-01 1a. Olympia, WA.

8. Wetlands Enhancement as Mitigation.

- a. Impacts to wetlands may be mitigated by enhancement of existing wetlands and must be accomplished in a manner consistent with the requirements of SLMC 14.08.620, Mitigation. Applicants proposing to enhance wetland must produce a critical area report that identifies how enhancement will increase the functions of the wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site.

E. Management Recommendations and Standards. The following management recommendations and standards will apply to development proposals determined to be located within wetland areas, as defined and described herein:

- 1. Wetlands shall be protected, based on their quality established from the rating system, and from alterations which may create adverse impacts. The greatest protection shall be provided to Category I and II wetlands.
- 2. Alteration shall not mean best management practices for agriculture which by design could not be considered a change in land use, including but not limited to improved chemical application or practice, which are intended to improve crop production and enhance areas adjacent to wetlands.
- 3. Activities conducted by public agencies to control mosquitoes in compliance with state and federal laws shall be exempt from City wetland regulations.
- 4. Activities and construction necessary on an emergency basis to prevent threats to public health and safety may be allowed if reasonable justification warrants cause for a waiver.

1 5. The City will coordinate wetland preservation strategy and effort with
 2 appropriate state and federal agencies, and private conservation organizations,
 3 to take advantage of both technical and financial assistance, and to avoid
 4 duplication of efforts.

5 6. A wetland buffer area of adequate width shall be maintained between
 6 wetlands and adjacent new development to protect the function and integrity
 7 of wetlands. The ultimate width of the established buffer shall be dependent
 8 upon functioning and sensitivity of the wetland; characteristics of the existing
 9 buffer, potential impacts associated with adjacent and proposed land use, and
 10 other existing regulation which may control the proposed activity. Extension
 11 or reduction in required buffer widths may be imposed according to these
 12 factors. Standard buffer widths shall be measured on the horizontal from the
 13 wetland boundary as surveyed in the field.

14 6.7. Measurement of wetland buffers. All buffers shall be measured on the horizontal
 15 from the wetland boundary as surveyed in the field. The width of the wetland
 16 buffer shall be determined according to the proposed land use (Table
 17 14.08.590(E)(6)(a) and wetland category (Table 14.08.590(E)(6)(b). Minimum
 18 buffer widths are:

19 **Table 14.08.600-590 (E)(6)(a). ~~Wetland Buffers~~Land Use Intensity Table**

<u>Level of Impact from Proposed Change in Land Use</u>	<u>Types of Land Use Based on Common Zoning Designations</u>
<u>High</u>	<ul style="list-style-type: none"> • <u>Commercial</u> • <u>Urban</u> • <u>Industrial</u> • <u>Institutional</u> • <u>Retail sales</u> • <u>Residential (more than 1 unit/acre)</u> • <u>High-intensity recreation (golf courses, ball fields, etc.)</u>
<u>Moderate</u>	<ul style="list-style-type: none"> • <u>Residential (1 unit/acre or less)</u> • <u>Moderate-intensity open space (parks with biking, jogging, etc.)</u> • <u>Paved driveways and gravel driveways serving 3 or more residences</u> • <u>Paved trails</u>
<u>Low</u>	<ul style="list-style-type: none"> • <u>Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)</u> • <u>Timber management</u> • <u>Gravel driveways serving 2 or fewer residences</u> • <u>Unpaved trails</u> • <u>Utility corridor without a maintenance road and little or no vegetation management.</u>

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Table 14.08.590 (E)(6)(b). Wetland Buffers

<u>Wetland Characteristics</u>	<u>Buffer Width by Impact of Proposed Land Use</u>	<u>Other Measures Recommended for Protection</u>
<u>Category IV Wetlands (For wetlands scoring less than 15 points or more for all functions)</u>		
<u>Score for all 3 basic functions is less than 30 points</u>	<u>Low – 25 ft</u> <u>Moderate – 40 ft</u> <u>High – 50 ft</u>	<u>No recommendations at this time</u>
<u>Category III Wetlands (For wetlands scoring 16-18 points or more for all functions)</u>		
<u>Moderate level of function for habitat (score for habitat 20-28 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>	<u>No recommendations at this time</u>
<u>Not meeting above characteristic</u>	<u>Low – 40 ft</u> <u>Moderate – 60 ft</u> <u>High – 80 ft</u>	<u>No recommendations at this time</u>
<u>Category II Wetlands (For wetlands that score 19-21 points or more for all functions or having the “Special Characteristics” identified in the rating system)</u>		
<u>High level of function for habitat (score for habitat 29-36 points)</u>	<u>Low – 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft²</u>	<u>Maintain connections to other habitat areas.</u>
<u>Moderate level of function for habitat (score for habitat 20-28 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>	<u>No recommendations at this time</u>
<u>High level of function for water quality improvement and low for habitat (score for water quality 24-32 points; habitat less than 20 points)</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>	<u>No additional surface discharges of untreated runoff</u>
<u>Riparian forest</u>	<u>Buffer width to be based on score for habitat functions or water quality functions</u>	<u>Riparian forest wetlands need to be protected at a watershed or subbasin scale</u> <u>Other protection based on needs to protect habitat and/or water quality functions</u>
<u>Not meeting above characteristic</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>	<u>No recommendations at this time</u>
<u>Vernal pool</u>	<u>Low - 100 ft</u> <u>Moderate - 150 ft</u> <u>High - 200 ft ;</u> <u>Or develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to:</u> <u>Low – 40 ft</u> <u>Moderate - 60 ft</u> <u>High – 80 ft</u>	<u>No intensive grazing or tilling of wetland</u>

<u>Wetland Characteristics</u>	<u>Buffer Width by Impact of Proposed Land Use</u>	<u>Other Measures Recommended for Protection</u>		
<i>Category I Wetlands (For wetlands that score 22 points or more for all functions or having the “Special Characteristics” identified in the rating system)</i>				
<u>Natural Heritage Wetlands</u>	<u>Low – 125 ft</u> <u>Moderate – 190 ft</u> <u>High – 250 ft</u>	<u>No additional surface discharges to wetland or its tributaries.</u> <u>No septic systems within 300 ft of wetland.</u> <u>Restore degraded parts of buffer.</u>		
<u>High level of function for habitat (score for habitat 29-36 points)</u>	<u>Low – 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft</u>	<u>Restore degraded parts of buffer.</u> <u>Maintain connections to other habitat areas</u>		
<u>Moderate level of function for habitat (score for habitat 20-28 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>	<u>No recommendations at this time</u>		
<u>High level of function for water quality improvement (24-32 points) and low for habitat (less than 20 points)</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>	<u>No additional surface discharges of untreated runoff</u>		
<u>Not meeting above characteristics</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>	<u>No recommendations at this time</u>		
Categories:				
Land-Use Intensity	I	II	III	IV
Major Development	250 ft	200 ft	150 ft	50 ft

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7.8. Wetland buffers shall be retained in their natural conditions unless change in a portion of a wetland buffer is proposed that will not have an adverse impact on the wetland, or adequate mitigation cannot or will not be provided by natural conditions. Wetland buffers shall not be mowed. Integrity of the wetland shall be maintained as a function of the buffer.

8.9. Buffer Averaging.

- a. Standard buffer widths may be modified by the Shoreline Administrator for an averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.
 - ii. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion.

- 1 iii. The total area of the buffer after averaging is equal to the area
- 2 required without averaging.
- 3 iv. The buffer at its narrowest point is never less than three-
- 4 quarters of the required width and/or 25 feet.
- 5 b. Averaging to allow reasonable use of a parcel may be permitted when
- 6 all of the following are met:
- 7 i. There are no feasible alternatives to the site design that could
- 8 be accomplished without buffer averaging.
- 9 ii. The averaged buffer will not result in degradation of the
- 10 wetland's functions and values as demonstrated by a report
- 11 from a qualified wetland professional.
- 12 iii. The total buffer area after averaging is equal to the area
- 13 required without averaging.
- 14 iv. The buffer at its narrowest point is never less than three-
- 15 quarters of the required width.
- 16 9.10. Activities or uses which would strip the shoreline of vegetative cover, cause
- 17 substantial erosion or sedimentation or affect aquatic life, should be
- 18 prohibited.
- 19 ~~10.11.~~ Construction of structural shoreline stabilization and flood control works
- 20 should be minimized. New developments should be designed to preclude need
- 21 for such works and should be compatible with shoreline characteristics and
- 22 limitations.
- 23 ~~11.12.~~ Wetland alteration shall not cause loss of ecological function or significant
- 24 adverse impact to wetland ecosystems or surrounding areas.
- 25 ~~12.13.~~ Encourage development of an education program promoting the value of
- 26 wetlands, and that promotes private stewardship of wetland areas.

27 **14.08.600 Most Current Scientific and Technical Information**

- 28 A. Critical area reports and decisions to alter critical areas shall rely on the most current,
- 29 accurate, and complete scientific and technical information available to protect the
- 30 functions and values of critical areas and must give special consideration to
- 31 conservation or protection measures necessary to preserve or enhance anadromous
- 32 fish and their habitat. The use of complete scientific and technical information shall
- 33 be consistent with requirements established in WAC 173-26-201(2)(a).

34 **14.08.610 Development Standards**

35 Within critical areas in the shoreline jurisdiction, the City shall prohibit soil excavation, grading,
36 removal of native vegetation species, draining, intentional burning, planting of invasive or
37 nuisance vegetation, placement of structures and new construction on critical areas unless
38 otherwise authorized in this chapter.

- 39 A. Applicability. These development standards apply to uses on critical areas and within
- 40 buffers unless otherwise exempted in this chapter.

- 1 B. Performance Standards. In order to approve application for development on lands
2 subject to this chapter, the Shoreline Administrator shall find that the following
3 standards have been met:
- 4 1. All reasonable alternatives for locating the development activity in such a way
5 so as to avoid critical areas have been considered and the development activity
6 will be located in the least environmentally sensitive area as practicable and
7 the purpose of this chapter is fulfilled.
- 8 2. The City has approved the vegetation removal methods and the removal of
9 native plants has been avoided, to the extent practicable.
- 10 3. All adverse impacts to all affected critical areas and buffers are either avoided
11 or fully mitigated to achieve no net loss.
- 12 4. The plan minimizes cuts and fills.
- 13 5. The Shoreline Administrator has reviewed and approved an erosion control
14 plan, grading plan, and vegetation removal and replanting plan prior to
15 construction activity.
- 16 6. All activities have received applicable state and federal permits, and comply
17 with SEPA requirements if the “lead agency” makes a threshold determination
18 of significance (DS), or a mitigated determination of nonsignificance
19 (MDNS).
- 20 7. Compliance with this chapter does not constitute compliance with state and
21 federal environmental standards. The applicant shall be responsible for
22 demonstrating such compliance.
- 23 C. Review Process.
- 24 1. Applications to develop on critical areas or their buffers shall be subject to
25 review if, within a one-year period, the cumulative impact on critical areas is:
- 26 a. Disturbance of ~~less~~more than 10 cubic feet of soil;
- 27 b. An activity, the fair market cost of which is ~~less~~more than \$500.00; or
- 28 c. The activity involves ~~less~~more than 1,000 square feet of critical areas.
- 29 d. SEPA Review. On a case-by-case basis, the responsible official may
30 issue a determination of nonsignificance (DNS) if:
- 31 i. The application for development review contains all requested
32 information, including reports, maps and other documents
33 relevant to the proposed activity; and
- 34 ii. The proposed activity complies with all applicable
35 development review and performance standards; and
- 36 iii. Compliance with all applicable development standards and
37 performance standards is made a binding condition of land use
38 approval.

1 **14.08.620 Mitigation**

- 2 A. Approval. City approval of a mitigation plan is a prerequisite for approval of any
3 development activities in critical areas.
- 4 1. The applicant shall submit a written request describing the extent and nature
5 of the proposed development activity on critical areas and buffers. The request
6 shall include boundary locations of all critical areas and attendant buffers.
- 7 2. The application for development shall include a mitigation plan prepared in
8 compliance with this section. Mitigation plans shall be developed utilizing the
9 guidelines found in Wetland Mitigation in Washington State, Part 1, Agency
10 Policies and Guidance (version 1, Publication No. 06-06-011a, March 2006)
11 and Wetland Mitigation in Washington State, Part 2, Developing Mitigation
12 Plans (Version 1, Publication No. 06-06-011b, March 2006).
- 13 3. The City may require the applicant to prepare special reports evaluating
14 potential adverse impacts upon critical areas and potential mitigation
15 measures as part of the land use application process. These reports may
16 include, but are not limited to, the following: storm water management plan;
17 hydrology, geology, and soils report; grading and erosion control plan; native
18 vegetation report; fish and wildlife assessment and impact report; water
19 quality report; wetlands delineation; and other reports determined necessary
20 by the City.
- 21 4. The City shall consult with state and federal resource management agencies
22 and, in order to protect wildlife habitat or natural resource values, shall attach
23 such conditions as may be necessary to effectively mitigate identified adverse
24 impacts of the proposed development activity.
- 25 5. The City may request third party “peer review” of an application by qualified
26 professionals and may incorporate recommendations from such ~~third~~
27 party~~third-party~~ reports in findings approving or denying the application.
- 28 6. All reports recommending mitigation shall include provisions for monitoring
29 of programs and replacement of improvements, on an annual basis, consistent
30 with report recommendations and at one-, three-, five- and seven-year
31 intervals.
- 32 7. The City may require replacement mitigation to be established and functional
33 prior to project construction.
- 34 B. No Net Loss.
- 35 1. Mitigation efforts, when allowed, shall ensure that development activity does
36 not yield a net loss of the area or function of the critical areas. No net loss
37 shall be measured by:
- 38 a. Avoidance or mitigation of adverse impacts to fish life; or
39 b. Avoidance or mitigation of net loss of habitat functions necessary to
40 sustain fish life; or

- 1 c. Avoidance or mitigation of loss of area by habitat type.
- 2 2. Mitigation measures shall be applied in the following sequence of steps listed
- 3 in order of priority, to achieve no net loss:
- 4 a. Avoiding the impact altogether by not taking a certain action or parts
- 5 of an action;
- 6 b. Minimizing impacts by limiting the degree or magnitude of the action
- 7 and its implementation by using appropriate technology or by taking
- 8 affirmative steps to avoid or reduce impacts;
- 9 c. Rectifying the impact by repairing, rehabilitating, or restoring the
- 10 affected environment;
- 11 d. Reducing or eliminating the impact over time by preservation and
- 12 maintenance operations;
- 13 e. Compensating for the impact by replacing, enhancing, or providing
- 14 substitute resources or environments; and
- 15 f. Monitoring the impact and the compensation projects and taking
- 16 appropriate corrective measures.
- 17 3. Mitigation to achieve no net loss should benefit those organisms being
- 18 impacted.
- 19 4. Where development results in a loss of wetland area, the mitigation plan shall
- 20 demonstrate that wetland area is replaced consistent with the ratios described
- 21 in Table 14.08.600 (D)(7). The created or enhanced wetland shall be, acre for
- 22 acre, of equal or greater biological values, including habitat value, and with
- 23 equivalent hydrological values including storage capacity.
- 24 C. Mitigation Plan. A mitigation plan shall provide for the design, implementation,
- 25 maintenance, and monitoring of mitigation measures. A mitigation plan shall include
- 26 but is not limited to the following:
- 27 1. Methods and techniques to be used to mitigate impacts to critical areas;
- 28 2. Explanation of methods and techniques, such as construction practices to be
- 29 used to implement the identified mitigation methods;
- 30 3. Methods and techniques for monitoring said mitigation and a proposed
- 31 timeframe for such monitoring. Monitoring periods shall be a minimum of
- 32 five years and shall be 10 or more years for scrub-shrub communities and
- 33 other areas where rate of growth slows the development of adequate cover.
- 34 **14.08.630 Bonds to Ensure Mitigation, Maintenance, and Monitoring**
- 35 A. When mitigation required pursuant to a development proposal is not completed prior
- 36 to the City final permit approval, such as final plat approval or final building
- 37 inspection, the City shall require the applicant to post a performance bond or other
- 38 security in a form and amount deemed acceptable by the City. If the development
- 39 proposal is subject to mitigation, the applicant shall post a mitigation bond or other

- 1 security in a form and amount deemed acceptable by the City to ensure mitigation is
2 fully functional.
- 3 B. The bond shall be in the amount of 125 percent of the estimated cost of the
4 uncompleted actions or the estimated cost of restoring the functions and values of the
5 critical area that are at risk, whichever is greater, and the cost of maintenance and
6 monitoring for a 10-year period.
- 7 C. The bond shall be in the form of an assignment of savings account, or an irrevocable
8 letter of credit guaranteed by an acceptable financial institution with terms and
9 conditions acceptable to the City attorney or other method acceptable to the Shoreline
10 Administrator.
- 11 D. Bonds or other security authorized by this section shall remain in effect until the City
12 determines, in writing, that the standards bonded for have been met. Bonds or other
13 security shall be held by the City for a minimum of 10 years to ensure that the
14 required mitigation has been fully implemented and demonstrated to function, and
15 may be held for longer periods when necessary.
- 16 E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an
17 applicant or violator to complete required mitigation, maintenance, monitoring, or
18 restoration.
- 19 F. Public development proposals shall be relieved from having to comply with the
20 bonding requirements of this section if public funds have previously been committed
21 for mitigation, maintenance, monitoring, or restoration.
- 22 G. Any failure to satisfy critical area requirements established by law or condition
23 including, but not limited to, the failure to provide a monitoring report within 30 days
24 after it is due or comply with other provisions of an approved mitigation plan shall
25 constitute a default, and the City may demand payment of any financial guarantees or
26 require other action authorized by the City code or any other law.
- 27 H. Any funds recovered pursuant to this section shall be used to complete the required
28 mitigation, maintenance or monitoring.

29 **14.08.640 Critical Area Inspections**

- 30 A. Reasonable access to the site shall be provided to the City, state, and federal agency
31 review staff for the purpose of inspections during any proposal review, restoration,
32 emergency action, or monitoring period.

33

Article VI. Existing Uses, Structures and Lots

14.08.700 Applicability

A. Applicability

1. All nonconformances in shoreline jurisdiction shall be subject to the provisions of this Section, Existing Uses, Structures and Lots. For nonconformance of use, structures and lots within shoreline critical areas, Article V, Critical Areas applies. When there is a conflict between this Section and the Critical Area Section as applicable to critical areas, the more restrictive standards shall apply.
2. The provisions of this chapter do not supersede or relieve a property owner from compliance with:
 - a. The requirements of the International Building and Fire Codes; or
 - b. The provisions of the SMP beyond the specific nonconformance addressed by this chapter.
3. A change in the required permit review process (e.g. Shoreline Substantial Development Permit versus a Shoreline Conditional Use Permit) shall not create a nonconformance.
4. Any nonconformance that is brought into conformance for any period of time shall forfeit status as nonconformance, except as specified in Section 14.08.710, Nonconforming Uses.
5. A nonconforming lot, use, or structure may be deemed legally nonconforming by providing documentation that the use in question occurred prior to the effective date of this SMP, from one of the following:
 - a. Local agency permit;
 - b. Orthophoto, aerial photo or planimetric mapping recognized as legitimate by the agency; or
 - c. Tax record.

14.08.710 Nonconforming Uses

- A. If, at the effective date of the SMP and any amendment thereto, a lawful use of land exists that is made no longer permissible under the terms of this SMP or amendments thereto, such use may be continued as a nonconforming use so long as it remains otherwise lawful subject to the following conditions:
1. No nonconforming use shall be intensified, enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of the SMP or amendment that made the use no longer permissible. Provided that a nonconforming use may be enlarged, increased or extended in conformance with applicable bulk and dimensional standards of this SMP upon approval of a shoreline conditional use permit.

- 1 2. No nonconforming use shall be moved in whole or in part to any other portion
- 2 of the lot which contains the nonconforming use.
- 3 3. If any nonconforming use of land ceases for any reason for a period of one
- 4 year during any two-year period, any subsequent use of such land shall
- 5 conform to the regulations specified by this SMP for the use environment in
- 6 which such land is located.
- 7 4. A structure which is being or has been used for a nonconforming use may be
- 8 used for a different nonconforming use only upon a finding that:
- 9 a. No reasonable alternative conforming use is practical;
- 10 b. The proposed use is equally or more appropriate to the shoreline
- 11 environment ~~than~~ environment than the existing nonconforming use,
- 12 and is at least as consistent with the policies and provisions of the act
- 13 and the SMP;
- 14 c. Such a change of use shall be subject to conditional use permit
- 15 approval. Conditions may be attached to the permit as are deemed
- 16 necessary to ensure compliance with the above findings, the
- 17 requirements of the master program and the Act and to ensure that the
- 18 use will not become a nuisance or a hazard.

19 **14.08.720 Nonconforming Structures**

- 20 A. If, at the effective date of the SMP or any amendment thereto, a lawful structure or
- 21 other improvement exists which is made no longer permissible under the terms of this
- 22 SMP or amendment thereto, such structure or other improvement may be continued
- 23 as a nonconforming structure or other improvement so long as it remains otherwise
- 24 lawful, subject to the following conditions:
- 25 1. No nonconforming structure or other improvement shall be altered or changed
- 26 in a way which increases its nonconformity except as allowed in “2.”
- 27 2. Expansions of structures that are nonconforming with respect to a required
- 28 shoreline buffer:
- 29 a. May not encroach any farther waterward into the required shoreline
- 30 buffer.
- 31 b. Expansions parallel to or landward of shoreline may be allowed
- 32 provided that said enlargement does not increase the extent of
- 33 nonconformity by further encroaching upon or extending into areas
- 34 where construction or use would not be allowed for new development
- 35 or uses. Expansions shall restore a portion of the shoreline buffer with
- 36 riparian vegetation at a 1:1 area ratio to offset the adverse impact.
- 37 When such expansions occur upland of an existing levee, the
- 38 applicant’s critical areas report may justify a smaller ratio provided
- 39 that the study demonstrates no net loss of ecological functions.
- 40 3. All expansion, extension, maintenance or repair activities of nonconforming
- 41 structures or improvements shall be consistent with all other provisions of this

- 1 Program, provided the cumulative cost of such maintenance or repair within
2 any 180-day period shall not exceed 50 percent of the assessed valuation of
3 such building, structure, or land (as applicable) at the time such maintenance
4 is completed. Replacement of the residential structure shall also be consistent
5 with the master program, including requirements for no net loss of shoreline
6 ecological functions.
- 7 4. When damaged, a nonconforming structure may be restored to the
8 configuration existing immediately prior to the time that the structure was
9 damaged, provided that:
- 10 a. The structure is damaged to an extent not exceeding seventy-five
11 percent of the replacement cost of the original development.
- 12 b. The applicant applies for permits needed to restore the development
13 within six months of the date the damage occurred.
- 14 c. All permits are obtained and reconstruction is completed within 24
15 months of the date of damage, unless an extension of time is granted
16 by the Shoreline Administrator upon written petition substantiating to
17 the satisfaction of the Administrator due cause for such extension.
- 18 d. The degree of the nonconforming use, building or structure is not
19 increased.
- 20 e. Nothing in this section will prohibit vertical expansion up to the height
21 allowed in the applicable use environment, provided all other
22 applicable requirements of the City of Soap Lake development
23 regulations are met.
- 24 5. Upkeep, repairs and maintenance of a nonconforming structure or other
25 improvement shall be permitted.
- 26 6. Should such structure or other improvement be moved for any reason for any
27 distance whatever, it shall thereafter conform to the regulations for the use
28 environment in which it is located. Conformance shall be required when:
- 29 a. A change of use is proposed;
- 30 b. The use is terminated or discontinued for more than one year, or the
31 structure(s) that houses the use is vacated for more than one year; or
- 32 c. The structure(s) or activity that occurs on the land in which the use is
33 conducted is proposed for relocation.
- 34 d. Residential structures and appurtenant structures that were legally
35 established and are used for a conforming use, but that do not meet
36 standards for the following shall be considered a conforming structure:
37 setbacks, buffers, or yards; area; bulk; height; or density.
- 38 7. For purposes of this section, "appurtenant structures" means garages, sheds,
39 and other legally established structures. "Appurtenant structures" does not
40 include bulkheads and other shoreline modifications or over-water structures.

1 **14.08.730 Nonconforming lots**

- 2 1. A nonconforming lot may be developed if permitted by other land use
3 regulations of the local government and so long as such development
4 conforms to all other requirements of the applicable master program and the
5 act.

6

7

Article VII. Administration and Enforcement

14.08.800 Roles and Responsibilities

A. Shoreline Administrator

1. The City of Soap Lake Zoning Administrator or his/her designee shall serve as the Shoreline Administrator, and in the case of a Shoreline Substantial Development Permit (SDP) to grant or deny the permit. The administrator shall administer the shoreline permit and notification systems, and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulations regulating land use and development in the City.
2. The Shoreline Administrator or his/her designee shall be familiar with regulatory measures pertaining to shorelines and their use, and, within the limits of his or her authority, shall cooperate in the administration of these measures. Permits issued under the provisions of this shoreline regulation shall be coordinated with other land use and development regulatory measures of the City. The Shoreline Administrator shall establish procedures that advise all parties seeking building permits or other development authorization of the need to consider possible shoreline applications. It is the intent of the City, consistent with its regulatory obligations, to simplify and facilitate the processing of Shoreline Substantial Development Permits.
3. The Shoreline Administrator or his/her designee shall ensure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Shoreline goals and policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations (where applicable, statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private property.
4. The Shoreline Administrator shall apply Article VII, Administration and Enforcement, and Article V, Critical Areas, for shoreline critical areas.

B. Hearing Examiner

1. The Hearing Examiner shall have the authority to decide on appeals from administrative decisions issued by the Shoreline Administrator of this SMP.
2. The Hearing Examiner may grant or deny Shoreline Variances and Shoreline Conditional Use Permits, following an open record hearing.

C. City Council. The City Council is vested with authority to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
2. Adopt all amendments to this SMP. Substantive amendments shall become effective immediately upon adoption by Ecology.

1 **14.08.810 Interpretation**

- 2 A. Under the administrative provisions, the Shoreline Administrator shall have authority
3 to interpret this SMP when such interpretation is clearly consistent with the goals and
4 policies of this SMP and the SMA.
- 5 B. The City shall consult with Ecology if formal written interpretations are developed as
6 a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master
7 Program to ensure that any are consistent with the purpose and intent of Chapter
8 90.58 and 173-26 WAC.

9 **14.08.820 Statutory Noticing Requirements**

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

12 **14.08.830 Application Requirements**

- 13 A. A complete application for a Shoreline Substantial Development, Shoreline
14 Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the
15 information listed in WAC 173-27-180.
- 16 B. The Shoreline Administrator shall provide written informational materials,
17 procedures, instructions, and forms, required to submit an application for a shoreline
18 substantial development permit, variance, or conditional use permit.
- 19 C. These materials should include but are not limited to a plan cover sheet; a Joint
20 Aquatic Resource Permits Application (JARPA) form; SEPA checklist; fee schedule;
21 review criteria; process and timelines to assist potential applicants and interested
22 parties on the permit application submittal and review process.
- 23 D. The Shoreline Administrator may vary or waive these requirements according to
24 administrative application requirements on a case-by-case basis.
- 25 E. The Shoreline Administrator may require additional specific information depending
26 on the nature of the proposal and the presence of sensitive ecological features or
27 issues related to compliance with other requirements, and the provisions of this SMP.

28 **14.08.840 Shoreline Substantial Development Permits**

- 29 A. A Shoreline Substantial Development Permit shall be required for all development on
30 shorelines, unless the proposal is specifically exempted per Section 14.08.870.
31 Shoreline Substantial Development permits shall be processed as set forth in Section
32 14.08.900 of this Program and SLMC Section 18.09.020, Planning agency reviews
33 and decisions.
- 34 B. A Shoreline Substantial Development Permit shall be granted only when the
35 development proposed is consistent with:
- 36 1. The policies and procedures of the Act, RCW 90.58;
37 2. The applicable provisions of WAC 173-27; and
38 3. This SMP.

- 1 C. The City may attach conditions to the approval of permits as necessary to ensure
- 2 consistency of the project with the SMA and this SMP.
- 3 D. Nothing shall interfere with the City's ability to require compliance with all other
- 4 applicable plans and laws.

5

6 **14.08.850 Shoreline Conditional Use Permits**

- 7 A. Uses specifically classified or set forth in this SMP as conditional uses shall be
- 8 subject to review and condition by the Shoreline Administrator and by Ecology.
- 9 Applications for a Shoreline Conditional Use Permit shall be processed according to
- 10 SLMV Section 18.03.050 and Chapter 2.72, Hearing Examiner.
- 11 B. Other uses which are not classified or listed or set forth in this SMP may be
- 12 authorized as conditional uses provided the applicant can demonstrate consistency
- 13 with the requirements of this Section and the requirements for conditional uses
- 14 contained in this SMP.
- 15 C. Uses which are specifically prohibited by this SMP may not be authorized as a
- 16 conditional use.
- 17 D. Review Criteria for CUP. Uses which are classified or set forth in the applicable
- 18 master program as conditional uses may be authorized provided that the applicant
- 19 demonstrates all of the following:
 - 20 1. That the proposed use is consistent with the policies of RCW 90.58.020 and
 - 21 the master program;
 - 22 2. That the proposed use will not interfere with the normal public use of public
 - 23 shorelines;
 - 24 3. That the proposed use of the site and design of the project is compatible with
 - 25 other authorized uses within the area and with uses planned for the area under
 - 26 the comprehensive plan and shoreline master program;
 - 27 4. That the proposed use will cause no significant adverse effects to the shoreline
 - 28 environment in which it is to be located; and
 - 29 5. That the public interest suffers no substantial detrimental effect.
- 30 E. In the granting of all conditional use permits, consideration shall be given to the
- 31 cumulative impact of additional requests for like actions in the area. For example, if
- 32 conditional use permits were granted for other developments in the area where similar
- 33 circumstances exist, the total of the conditional uses shall also remain consistent with
- 34 the policies of RCW 90.58.020 and shall not produce substantial adverse effects to
- 35 the shoreline environment.
- 36 F. In authorizing a conditional use, special conditions may be attached to the permit by
- 37 the City or Ecology to prevent undesirable effects of the proposed use and/or to
- 38 ensure consistency of the project with the SMA and this SMP.

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

3 **14.08.860 Shoreline Variance Permits**

4 A. The purpose of a variance is to grant relief to specific bulk or dimensional
5 requirements set forth in this SMP where there are extraordinary or unique
6 circumstances relating to the property such that the strict implementation of this SMP
7 would impose unnecessary hardships on the applicant or thwart the policies set forth
8 in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.
9 Applications for Shoreline Variance Permits shall be processed according to SLMC
10 Section 18.03.050 and Chapter 2.72, Hearing Examiner.

11 B. Review Criteria

12 1. Variance permits should be granted in circumstances where denial of the
13 permit would result in a thwarting of the policy enumerated in RCW
14 90.58.020. In all instances the applicant must demonstrate that extraordinary
15 circumstances shall be shown and the public interest shall suffer no substantial
16 detrimental effect.

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

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

24 b. That the hardship described in criterion 14.08.860 (B)(2) (a) of this
25 subsection is specifically related to the property, and is the result of
26 unique conditions such as irregular lot shape, size, or natural features
27 and the application of the SMP, and not, for example, from deed
28 restrictions or the applicant's own actions;

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

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

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

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

38 3. Variance permits for development and/or uses that will be located waterward
39 of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as

1 defined in RCW 90.58.030(2)(h), may be authorized provided the applicant
2 can demonstrate all of the following:

- 3 a. That the strict application of the bulk, dimensional or performance
4 standards set forth in the applicable master program precludes all
5 reasonable use of the property;
- 6 b. That the proposal is consistent with the criteria established under
7 Section 14.08.80 (B)(2) (a)-(f) above can be met; and
- 8 c. That the public rights of navigation and use of the shorelines will not
9 be adversely affected.

- 10 4. In the granting of all variance permits, consideration shall be given to the
11 cumulative impact of additional requests for like actions in the area. For
12 ~~example~~ ~~example~~, if variances were granted to other developments and/or uses
13 in the area where similar circumstances exist, the total of the variances shall
14 also remain consistent with the policies of RCW 90.58.020 and shall not cause
15 substantial adverse effects to the shoreline environment.

16 **14.08.870 Exemptions from Shoreline Substantial Development Permits**

- 17 A. An exemption from the Shoreline Substantial Development Permit process is not an
18 exemption from compliance with the SMA or this SMP, or from any other regulatory
19 requirements. All proposed uses, activities, or development occurring within
20 shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58
21 RCW, the SMA, and this SMP whether or not a permit or other form of authorization
22 is required.
 - 23 1. Letters of exemption shall be issued by the City when an exemption applies or
24 when a letter of exemption is required by the provisions of WAC 173-27-050
25 and as follows:
 - 26 a. Any person claiming exemption from the substantial development
27 permit requirements shall make an application to the Shoreline
28 Administrator for such an exemption in the manner prescribed by the
29 Shoreline Administrator, except that no written statement of
30 exemption is required for emergency development pursuant to WAC
31 173-27-040(2)(d).
 - 32 b. The Shoreline Administrator is authorized to grant or deny requests for
33 statements of exemption from the shoreline substantial development
34 permit requirement for uses and developments within shorelines that
35 are specifically listed in Section 14.08.870 (C). The statement shall be
36 in writing and shall indicate the specific exemption of this Program
37 that is being applied to the development, and shall provide a summary
38 of the Shoreline Administrator's analysis of the consistency of the
39 project with this Program and the Act. The letter shall be sent to the
40 applicant and maintained on file in the offices of the Shoreline
41 Administrator.

- 1 2. Statements of exemption may contain conditions and/or mitigating measures
2 of approval to achieve consistency and compliance with the provisions of this
3 Program and the Act
- 4 3. A denial of an exemption shall be in writing and shall identify the reason(s)
5 for the denial. The Shoreline Administrator’s decision may be appealed
6 pursuant to Section 14.08.910.
- 7 4. Exempt activities requiring a JARPA shall not be conducted until a statement
8 of exemption has been obtained from the Shoreline Administrator.

9 B. Interpretations of Exemptions

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

30 C. The City shall exempt from the Shoreline Substantial Development Permit
31 requirement the shoreline developments listed below:

- 32 1. Any development of which the total cost or fair market value does not exceed
33 ~~six~~ eight thousand, ~~four hundred and sixteen~~ five hundred and four dollars
34 (\$~~6,416~~8,504.00) or as adjusted by the State Office of Financial Management,
35 if such development does not materially interfere with the normal public use
36 of the water or shorelines of the state. For purposes of determining whether or
37 not a permit is required, the total cost or fair market value shall be based on
38 the value of development that is occurring on shorelines of the state as defined
39 in RCW 90.58.030 (2)(c). The total cost or fair market value of the
40 development shall include the fair market value of any donated, contributed,
41 or found labor, equipment or materials.

- 1 2. Normal maintenance or repair of existing legally-established structures or
2 developments, including damage by accident, fire, or elements. Replacement
3 of a structure or development may be authorized as repair where such
4 replacement is the common method of repair for the type of structure or
5 development and the replacement structure or development is comparable to
6 the original structure or development including but not limited to its size,
7 shape, configuration, location, and external appearance and the replacement
8 does not cause substantial adverse effects to shoreline resources or
9 environment.
- 10 3. Construction of a normal protective bulkhead common to single-family
11 residences. A "normal protective" bulkhead includes those structural and
12 nonstructural developments installed at or near, and parallel to, the ordinary
13 high water mark for the sole purpose of protecting an existing single-family
14 residence and appurtenant structures from loss or damage by erosion. A
15 normal protective bulkhead is not exempt if constructed for the purpose of
16 creating dry land. When a vertical or near vertical wall is being constructed or
17 reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall
18 may be used as backfill. When an existing bulkhead is being repaired by
19 construction of a vertical wall fronting the existing wall, it shall be
20 constructed no further waterward of the existing bulkhead than is necessary
21 for construction of new footings. When a bulkhead has deteriorated such that
22 an ordinary high water mark has been established by the presence and action
23 of water landward of the bulkhead then the replacement bulkhead must be
24 located at or near the actual ordinary high water mark. Beach nourishment and
25 bioengineered erosion control projects may be considered a normal protective
26 bulkhead when any structural elements are consistent with the above
27 requirements and when the project has been approved by the Department of
28 Fish and Wildlife (WDFW).
- 29 4. Emergency construction necessary to protect property from damage by the
30 elements. An "emergency" is an unanticipated and imminent threat to public
31 health, safety, or the environment that requires immediate action within a time
32 too short to allow full compliance with this chapter. Emergency construction
33 does not include development of new permanent protective structures where
34 none previously existed. Where new protective structures are deemed by the
35 Shoreline Administrator to be the appropriate means to address the emergency
36 situation, upon abatement of the emergency situation the new structure shall
37 be removed or any permit that would have been required, absent an
38 emergency, pursuant to RCW 90.58 these regulations, or this Program, shall
39 be obtained. All emergency construction shall be consistent with the policies
40 and requirements of this chapter, RCW 90.58, and this Program. As a general
41 matter, flooding or other seasonal events that can be anticipated and may
42 occur but that are not imminent are not an emergency.
- 43 5. Construction or modification of navigational aids such as channel markers and
44 anchor buoys.

- 1 6. Construction on shorelands by an owner, lessee, or contract purchaser of a
2 single-family residence or appurtenance for their own use or for the use of
3 their family, which residence does not exceed a height of thirty-five (35) feet
4 above average grade level, and which meets all requirements of the City, other
5 than requirements imposed pursuant to RCW 90.58. Construction authorized
6 under this exemption shall be located landward of the ordinary high water
7 mark.
- 8 7. Construction of a dock, including a community dock, designed for pleasure
9 craft only, for the private non-commercial use of the owner, lessee, or contract
10 purchaser of a single-family or multiple-family residence. A dock is a landing
11 and moorage facility for watercraft and does not include recreational decks,
12 storage facilities or other appurtenances. This exception applies if the fair
13 market value of the dock does not exceed:
- 14 a. Twenty-two thousand five hundred dollars (\$22,500) for docks that are
15 constructed to replace existing docks, are of equal or lesser square footage
16 than the existing dock being replaced; or
- 17 b. Eleven thousand two hundred (\$11,200) dollars for all other docks
18 constructed in fresh waters.
- 19 a.c. However, if subsequent construction occurs within five years of
20 completion of the prior construction, and the combined fair market value
21 of the subsequent and prior construction exceeds the amount specified
22 above, the subsequent construction shall be considered a substantial
23 development for the purpose of this chapter.
- 24 ~~5.8.~~ Operation, maintenance, or construction of canals, waterways, drains,
25 reservoirs, or other facilities that now exist or are hereafter created or
26 developed as a part of an irrigation ~~system~~, system, including return flow and
27 artificially stored ground water from the irrigation of lands.
- 28 ~~6.9.~~ The marking of property lines or corners on state-owned lands, when such
29 marking does not significantly interfere with normal public use of the surface
30 of the water.
- 31 ~~7.~~ ~~Any project with a certification from the governor pursuant to RCW 80.50~~
32 ~~(certification from the State Energy Facility Site Evaluation Council).~~
- 33 ~~8.10.~~ Site exploration and investigation activities that are prerequisite to preparation
34 of an application for development authorization under this chapter, if:
- 35 a. The activity does not interfere with the normal public use of surface
36 waters;
- 37 b. The activity will have no significant adverse impact on the
38 environment including but not limited to fish, wildlife, fish or wildlife
39 habitat, water quality, and aesthetic values;

- c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
- d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.

~~9.11.~~ 11. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.

~~10.12.~~ 12. Watershed restoration projects as defined in RCW 89.08.460.

~~11.~~ 11.—A public or private project that is designed to improve fish or wildlife habitat or fish passage, consistent with RCW 90.58.147 and RCW 77.55.181. ~~when all of the following apply:~~

~~12.~~ 12.—~~The project has been approved by WDFW;~~

~~13.~~ 13.—~~The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55; and~~

~~14.~~ 14.—~~The City has determined that the project is substantially consistent with the local shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the applicant.~~

~~15.13.~~ 13. ~~Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs.~~

~~16.~~ 16.—~~Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D.~~

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

~~17.15.~~ 15. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

14.08.880 Duration of Permits

- A. The duration of permits shall be consistent with WAC 173-27-090.

14.08.890 Initiation of Development

- A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days

1 from the date of ~~receipt~~filing with Ecology as defined in RCW 90.58.140(6) and
2 WAC 173-27-130, or until all review proceedings initiated within twenty-one (21)
3 from the date of ~~receipt~~filing of the decision. The date of filing for a Substantial
4 Development Permit is the date of actual receipt by the department of Ecology of a
5 local government's final decision on the permit. With regard to a permit for a
6 Shoreline Variance or a Shoreline Conditional Use, date of filing means the date a
7 responsible local government or applicant receives the written decision of Ecology.
8 When a substantial development permit and a conditional use or variance permit are
9 required for a development, the submittal on the permits shall be made concurrently.

10 B. Permits for Substantial Development, Shoreline Conditional use, or Shoreline
11 Variance may be in any form prescribed and used by the City including a combined
12 permit application form. Such forms will be supplied by the City.

13 C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The
14 permit data sheet form shall be consistent with WAC 173-27-990.

15 **14.08.900 Review Process**

16 A. After the City's approval of a Shoreline Conditional Use or Variance Permit, the City
17 shall submit the permit to the Department of Ecology for approval, approval with
18 conditions, or denial. Ecology shall render and transmit to the City and the applicant
19 its final decision approving, approving with conditions, or disapproving the permit
20 within thirty days of the date of submittal by the City pursuant to WAC 173-27-110.

21 B. The Department of Ecology shall review the complete file submitted by the City on
22 Shoreline Conditional Use or Variance Permits and any other information submitted
23 or available that is relevant to the application. Ecology shall base its determination to
24 approve, approve with conditions or deny a conditional use permit or variance on
25 consistency with the policy and provisions of the SMA and, except as provided in
26 WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.

27 C. The City shall provide timely notification of the Department of Ecology's final
28 decision to those interested persons having requested notification from local
29 government pursuant to WAC 173-27-130.

30 **14.08.910 Appeals**

31 A. Appeals of Shoreline Permit Decisions. The City of Soap Lake's decisions on
32 Shoreline permits may be appealed to the following 'bodies' in this sequence, as
33 applicable:

34 1. The City of Soap Lake Hearings Examiner or in accordance with SLMC
35 18.11, Appeals and 2.72, Hearing Examiner (For Substantial Development
36 Permits only).

37 2. State Shorelines Hearings Board (SHB) in Tumwater

38 3. SHB decisions may be appealed to superior court.

39 4. Superior court decisions may be appealed to the Court of Appeals

40 5. Appeals Court decisions may be appealed to the Washington Supreme Court

1 6. Appeals to the SHB and courts are governed by RCW 90.58.180,
2 RCW 43.21B.001, RCW 34.05 Part V, and WAC 461.08.

3 B. All requests for review of any final permit decisions under chapter 90.58 RCW and
4 chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180
5 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines
6 hearings board.

7 **14.08.920 Amendments to Permits**

8 A. A permit revision is required whenever the applicant proposes substantive changes to
9 the design, terms or conditions of a project from that which is approved in the permit.
10 Changes are substantive if they materially alter the project in a manner that relates to
11 its conformance to the terms and conditions of the permit, the SMP and/or the
12 policies and provisions of chapter 90.58 RCW. Changes which are not substantive in
13 effect do not require approval of a revision.

14 B. Revisions to permits shall be considered consistent with WAC 173-27-100.

15 **14.08.930 Enforcement**

16 A. The Act provides for a cooperative program between the City of Soap Lake and the
17 Department of Ecology to implement and enforce the provisions of the Act and this
18 Master Program. This Section provides for a variety of means of enforcement,
19 including civil and criminal penalties, orders to cease and desist, and orders to take
20 corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290,
21 173-27-300 and SLMC 18.13. The enforcement means and penalties provided herein
22 are not exclusive and may be taken or imposed in conjunction with, or in addition to,
23 any other civil enforcement actions and civil penalties, injunctive or declaratory
24 relief, criminal prosecution, actions to recover civil or criminal penalties, or any other
25 action or sanction authorized by this Section, or any other provision of the City of
26 Soap Lake Code and Land Use Code, or any other provision of state or federal law
27 and regulation.

28 B. The Shoreline Administrator, with the assistance of the City's attorney, shall have
29 authority to commence and prosecute any enforcement action authorized by this
30 section. In determining the appropriate enforcement actions to be commenced and
31 prosecuted, the Administrator shall consider the following factors:

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

1 impacts upon the shoreline environment and its ecological functions, or the
2 public health and safety.

3 C. The Shoreline Administrator may commence and prosecute enforcement action
4 jointly with the Department of Ecology. Pursuant to WAC Chapter 173-27, the
5 Department of Ecology may initiate and prosecute enforcement action separate from
6 the Shoreline Administrator.

7 **14.08.940 Cumulative Effects of Shoreline Developments**

8 A. The City will periodically evaluate the effectiveness of the Shoreline Master Program
9 update for achieving no net loss of shoreline ecological functions with respect to
10 shoreline permitting and exemptions. At the end of 2015 and at the end of every other
11 year thereafter the Shoreline Administrator shall prepare a report of shoreline
12 development permits, conditional permits and variances including the exempt use
13 activity approvals and the locations and effects of each, by type and classifications.
14 The report should include activities involving development, conservation, restoration,
15 mitigation and enforcement. It should summarize the net change of developments
16 (including new development, decommissioning of structures and protected areas)
17 using indicators such as linear length of stabilization and flood hazard structures,
18 number of overwater structures (piers, docks etc.), road length within shoreline,
19 number of water body road crossings, number of levees/dikes, acres of impervious
20 surface areas, acres of vegetation, acres of permanently protected areas or areas with
21 limited development. Compliance and enforcement activity will also be tracked.

22 B. The Shoreline Administrator will, to the extent feasible, coordinate with other
23 departments of the City or as adjacent jurisdictions, to assess cumulative effects of
24 shoreline development.

25 **14.08.950 Amendments to Shoreline Master Program**

26 A. Amendments to the Program shall be processed as legislative decisions pursuant to
27 WAC 173-26-110 as mentioned in this subsection. A complete submittal to the
28 Department of Ecology shall include two copies of the following, where applicable:

- 29 1. Documentation (i.e., signed resolution or ordinance) that the proposal has
30 been approved by the local government;
- 31 2. If the proposal includes text amending a master program document of record,
32 it shall be submitted in a form that can replace or be easily incorporated within
33 the existing document.
- 34 3. Amended text shall show strikeouts for deleted text and underlining for new
35 text, clearly identifying the proposed changes. At the discretion of the
36 department, strikeouts and underlined text may not be required provided the
37 new or deleted portions of the master program are clearly identifiable;
- 38 4. Amended environment designation map(s), showing both existing and
39 proposed designations, together with corresponding boundaries described in
40 text for each change of environment. All proposals for changes in
41 environment designation and redesignation shall provide written justification
42 for such based on existing development patterns, the biophysical capabilities

- 1 and limitations of the shoreline being considered, and the goals and
2 aspirations of the local citizenry as reflected in the locally adopted
3 comprehensive land use plan;
- 4 5. A summary of proposed amendments together with explanatory text
5 indicating the scope and intent of the proposal, staff reports, records of the
6 hearing, and/or other materials which document the necessity for the proposed
7 changes to the master program;
- 8 6. Evidence of compliance with chapter 43.21C RCW, the State Environmental
9 Policy Act, specific to the proposal;
- 10 7. Evidence of compliance with the public notice and consultation requirements
11 of WAC 173-26-100;
- 12 8. Copies of all public, agency and tribal comments received, including a record
13 of names and addresses of interested parties involved in the local government
14 review process or, where no comments have been received, a comment to that
15 effect.
- 16 9. A copy of the master program submittal checklist completed in accordance
17 with WAC 173-26-201 \ (2)(f) and (3)(a) and (h).
- 18 10. For comprehensive master program updates, copies of the inventory and
19 characterization, use analysis, restoration plan and cumulative impacts
20 analysis.
- 21 B. Any locally approved amendments to the SMP will not become effective until
22 approved by the State Department of Ecology.

23 **14.08.960 Definitions**

- 24 A. For the purposes of this chapter, the definitions set forth in this section. Unless
25 specifically defined in this chapter, words or phrases used in this chapter shall be
26 interpreted so as to give them the meaning they have in common usage and to give
27 this chapter its most reasonable application.
- 28 1. "Act" means the Washington State Shoreline Management Act, chapter 90.58
29 RCW.
- 30 2. "Active recreation" means activities that refresh or restore one's strength,
31 spirits or vitality through physical movement or action.
- 32 3. "Adjacent," for purposes of applying Article V – Critical Areas, means
33 immediately adjoining (in contact with the boundary of the influence area) or
34 within a distance less than that needed to separate activities from critical areas
35 to ensure protection of the functions and values of the critical areas. Adjacent
36 shall mean any activity or development located:
- 37 a. On-site immediately adjoining a critical area; or
- 38 a. A distance equal to or less than the required critical area buffer width
39 and building setback.

- 1 4. "Adoption by rule" means an official action by the department to make a local
2 government shoreline master program effective through rule consistent with
3 the requirements of the Administrative Procedure Act, chapter 34.05 RCW,
4 thereby incorporating the adopted shoreline master program or amendment
5 into the state master program.
- 6 5. "Agency consultation" means consultation with state or federal agencies,
7 including but not limited to those listed below, for the intended purposes.
8 "Agency consultation" does not mean "Endangered Species Section 7
9 Consultation."
- 10 6. Washington Department of Fish and Wildlife and/or the U. S. Fish and
11 Wildlife Service for the purpose of making a preliminary determination
12 regarding the presence of priority habitats and species and the potential
13 impacts of a development proposal on such habitats and species.
- 14 7. The Washington State Department of Natural Resources Natural Heritage
15 Program for the purpose of making a preliminary determination regarding
16 impacts of a development proposal on rare or sensitive plant and animal
17 species associated with wetlands and aquatic ecosystems.
- 18 8. The Washington State Department of Ecology for the purpose of making a
19 preliminary determination regarding impacts of a development proposal on
20 wetlands and aquatic ecosystems.
- 21 9. The Washington State Department of Ecology for the purpose of making a
22 preliminary determination regarding impacts of a development on
23 groundwater resources and aquifer recharge areas.
- 24 10. The Washington State Department of Natural Resources Division of Geology
25 and Earth Science for the purpose of making a preliminary determination
26 regarding geologically hazardous areas, especially earthquakes and seismic
27 activity.
- 28 11. The Natural Resource Conservation Service for the purpose of making a
29 preliminary determination regarding geologically hazardous areas as they
30 pertain to slope, soil type, other soil characteristics, and other erosive
31 properties of soils.
- 32 12. "Alteration," for purposes of applying Article V – Critical Areas, means any
33 human-induced change in an existing condition of a critical area or its buffer.
34 Alterations include, but are not limited to: grading, filling, dredging,
35 channelizing, clearing (vegetation), applying pesticides, discharging waste,
36 construction, compaction, excavation, modifying for stormwater management,
37 relocating, or other activities that change the existing landform, vegetation,
38 hydrology, wildlife, or habitat value, of critical areas.
- 39 13. "Amendment" means a revision, update, addition, deletion, and/or
40 reenactment to an existing shoreline master program.
- 41 14. "Applicant" means a person who files an application for a permit under this
42 SMP and who is either the owner of the land on which that proposed activity

- 1 would be located, a contract purchaser, or the authorized agent of such a
2 person.
- 3 15. "Approval" means an official action by a local government legislative body
4 agreeing to submit a proposed shoreline master program or amendments to the
5 Department of Ecology for review and official action pursuant to this chapter;
6 or an official action by the Department of Ecology to make a local
7 government shoreline master program effective, thereby incorporating the
8 approved shoreline master program or amendment into the state master
9 program.
- 10 16. "Aquifers" refers to groundwater-bearing geologic formations that contain
11 enough saturated permeable material to yield significant quantities of water to
12 wells. Shallow (less than 100 feet) perched (trapped on an impervious layer of
13 clay) aquifer caused from irrigation (Columbia Basin irrigation project) is not
14 considered an aquifer.
- 15 17. "Aquifer recharge" means the process of infiltration and migration by which
16 groundwater is replenished.
- 17 18. "Aquifer recharge area" means an area that, due to the presence of certain
18 soils, geology, and surface water, acts to recharge ground water by
19 percolation.
- 20 19. "Artificial wetlands intentionally created from nonwetland sites" are only
21 those wetlands, which upon examination using best available science, are
22 found to have all three of the following criteria:
- 23 a. The wetland is sustained by water that has been intentionally pumped
24 or piped for irrigation or disposal and if the pumping or piped flow
25 ceased, the wetland would naturally disappear.
- 26 b. The wetland was created by water that was intentionally applied to
27 land for irrigation, disposal, or seeped from water in reservoirs, canals,
28 drains, retention or treatment facilities.
- 29 c. The wetland did not exist prior to the United States Bureau of
30 Reclamation Columbia Basin irrigation project.
- 31 20. "Assessed value" means assessed valuation shall be as established by the
32 County assessor's office, unless otherwise provided by a market appraisal
33 institute (MAI) appraisal.
- 34 21. "Associated wetlands" are those wetlands which are in proximity to, and
35 either influence or are influenced by, a stream subject to the Act.
- 36 22. "Average grade level" means the average of the natural or existing topography
37 of the portion of the lot, parcel, or tract of real property which will be directly
38 under the proposed building or structure: In the case of structures to be built
39 over water, average grade level shall be the elevation of the ordinary high
40 water mark. Calculation of the average grade level shall be made by averaging

- 1 the ground elevations at the midpoint of all exterior walls of the proposed
2 building or structure.
- 3 23. “Best management practices” means conservation practices or systems of
4 practices and management measures that promote the intent of this chapter.
- 5 24. “Boating facilities” includes boat launches and upland boat storage, marinas
6 and other boat moorage structures or uses.
- 7 25. “Breakwater” means an offshore structure whose primary purpose is to protect
8 harbors, moorages and navigation activity from wave and wind action by
9 creating ~~stillwater~~ still water areas along shore. A secondary purpose is to
10 protect shorelines from wave caused erosion. Breakwaters are generally built
11 parallel to shore, and may or may not be connected to land, and may be
12 floating or stationary.
- 13 26. “Buffer” means an area that surrounds and protects critical area functions
14 from adverse impacts.
- 15 27. “Buffer management” means actions and practices conducted for the purpose
16 of protection and enhancement of critical areas by moderating or eliminating
17 adverse impacts from adjacent land(s) or areas to create a buffer from
18 encroachment by urban growth areas.
- 19 28. “City” means the City of Soap Lake.
- 20 29. “Clearing” means the cutting, killing, grubbing, or removing of vegetation or
21 other organic material by physical, mechanical, chemical, or any other similar
22 means.
- 23 30. “Community access” means a shoreline access available to a group or
24 community (e.g. home owners association) which may not be accessible to
25 general public.
- 26 31. “Conservation Easement” means a reservation or encumbrance on particular
27 piece of real property that precludes building improvement(s) intended for
28 human habitation or other structures or activities that would frustrate the
29 primary purpose of the easement as a buffer.
- 30 32. “Compensation project” means actions specifically designed to replace
31 project-induced critical area and buffer losses. Compensation project design
32 elements may include, but are not limited to, land acquisition, planning,
33 construction plans, monitoring, and contingency actions.
- 34 33. “Compensatory mitigation” means types of mitigation used to replace project-
35 induced critical area and buffer losses or impacts.
- 36 34. “Council” means the council of the City of Soap Lake.
- 37 35. “Critical aquifer recharge areas (CARA)” are areas where an aquifer that is a
38 source of drinking water is especially vulnerable to contamination that would
39 affect the potability of the water.

- 1 36. “Critical recharging areas” are locations which have the capacity to replenish
2 the storage of underground water due to favorable hydrological and
3 topographical conditions.
- 4 37. “Critical areas” include the following areas and ecosystems:
- 5 a. Frequently flooded areas;
- 6 b. Areas with critical recharging effect on aquifers used for potable
7 water;
- 8 c. Geologically hazardous areas;
- 9 d. Fish and wildlife habitat conservation areas; and
- 10 e. Wetlands.
- 11 38. “CRP management” means the practices and activities that constitute an
12 approach to land management, and which are a part of the conservation
13 reserve program.
- 14 39. “Cultural and historic resources” means buildings, sites and areas having
15 archaeological, historical, cultural or scientific value or significance.
- 16 40. “Data Maps” means that series of maps maintained by the City for the purpose
17 of graphically depicting the boundaries of resource lands and critical areas.
- 18 41. “Developable area” means a site or portion of a site that may be utilized as the
19 location of development, in accordance with the rules of this SMP.
- 20 42. “Development” means a use consisting of the construction or exterior
21 alteration of structures; dredging; drilling; dumping; filling; removal of any
22 sand, gravel, or minerals; bulk heading; driving of piling; placing of
23 obstructions; or any project of a permanent or temporary nature which
24 interferes with the normal public use of the surface of the waters overlying
25 lands subject to the act at any stage of water level. “Development” does not
26 include dismantling or removing structures if there is no other associated
27 development or re-development.
- 28 43. “Development Application” means an application tendered under the
29 provision of subdivision and zoning ordinances for a conditional use permit,
30 rezone or planned development, or an application submitted pursuant to the
31 subdivision and zoning ordinance for a preliminary major subdivision or short
32 plat.
- 33 44. “Development permit” means any permit issued by the City of Soap Lake, or
34 other authorized agency, for construction, land use, or the alteration of land.
- 35 45. "Ecological functions" or "shoreline functions" means the work performed or
36 role played by the physical, chemical, and biological processes that contribute
37 to the maintenance of the aquatic and terrestrial environments that constitute
38 the shoreline’s natural ecosystem.
- 39 46. “Ecology” means the Washington State Department of Ecology.

- 1 47. "Ecosystem-wide processes" means the suite of naturally occurring physical
2 and geologic processes of erosion, transport, and deposition; and specific
3 chemical processes that shape landforms within a specific shoreline ecosystem
4 and determine both the types of habitat and the associated ecological
5 functions.
- 6 48. "Erosion" means the process by which soil particles are mobilized and
7 transported by natural agents such as wind, rain, frost action, or stream flow.
- 8 49. "Erosion hazard area" means those areas that, because of natural
9 characteristics including vegetative cover, soil texture, slope gradient, and
10 rainfall patterns, or human-induced changes to such characteristics, are
11 vulnerable to erosion.
- 12 50. "Exotic species" means any introduced species of plant or animal occurring in
13 Washington, not found historically in the state.
- 14 51. "Feasible" means, for the purpose of this chapter, that an action, such as a
15 development project, mitigation, or preservation requirement, meets all of the
16 following conditions: (a) The action can be accomplished with technologies
17 and methods that have been used in the past in similar circumstances, or
18 studies or tests have demonstrated in similar circumstances that such
19 approaches are currently available and likely to achieve the intended results;
20 (b) The action provides a reasonable likelihood of achieving its intended
21 purpose; and (c) The action does not physically preclude achieving the
22 project's primary intended legal use. In cases where these guidelines require
23 certain actions unless they are infeasible, the burden of proving infeasibility is
24 on the applicant. In determining an action's infeasibility, the reviewing agency
25 may weigh the action's relative public costs and public benefits, considered in
26 the short- and long-term time frames.
- 27 52. "Federal or State Endangered, Threatened, Candidate Species".
- 28 a. "Endangered species" means a native species that is seriously
29 threatened with extinction throughout all or a significant portion of its
30 range.
- 31 b. "Threatened species" means a native species that is likely to become
32 endangered within the foreseeable future throughout all or a significant
33 portion of its range without cooperative management or removal of
34 threats.
- 35 c. "Candidate species" means a native species under review for possible
36 listing as endangered, threatened, or sensitive. A species will be
37 considered for candidate designation if sufficient scientific evidence
38 suggests that its status may meet criteria defined for "endangered,"
39 "threatened" or "sensitive." Currently listed state threatened or state
40 sensitive species may also be designated as state candidate species if
41 their status is in question.

- 1 53. “Frequently flooded areas” include lands in the floodplain subject to a one
2 percent or greater chance of flooding in any given year. These areas include,
3 but are not limited to, streams, rivers, lakes, coastal areas, wetlands and other
4 natural water sources.
- 5 54. "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining
6 structure, or other material to an area waterward of the OHWM, in wetlands,
7 or on shorelands in a manner that raises the elevation or creates dry land.
- 8 55. “Fish and wildlife habitat conservation areas” means areas necessary for
9 maintaining species in suitable habitats within their natural geographic
10 distribution so that isolated subpopulations are not created as designated by
11 WAC 365-190-130 These areas include:
- 12 a. Federally designated endangered, threatened and sensitive species.
13 Areas with which federally designated endangered, threatened and
14 sensitive species have a primary association. Federally designated
15 endangered and threatened species are those fish and wildlife species
16 identified by the U.S. Fish and Wildlife Service and the National
17 Marine Fisheries Service that are in danger of extinction or threatened
18 to become endangered. The U.S. Fish and Wildlife Service and the
19 National Marine Fisheries Service should be consulted for current
20 listing status.
- 21 b. State designated endangered, threatened and sensitive species. Areas
22 with which state designated endangered, threatened and sensitive
23 species have a primary association.
- 24 c. State designated endangered, threatened, and sensitive species are
25 those fish and wildlife species native to the state of Washington
26 identified by the Washington Department of Fish and Wildlife, that are
27 in danger of extinction, threatened to become endangered, vulnerable,
28 or declining and are likely to become endangered or threatened in a
29 significant portion of their range within the state without cooperative
30 management or removal of threats. State designated endangered,
31 threatened, and sensitive species are periodically recorded in WAC
32 232-12-014 (state endangered species) and WAC 232-12-011 (state
33 threatened and sensitive species). The state Department of Fish and
34 Wildlife maintains the most current listing and should be consulted for
35 current listing status.
- 36 d. State Priority Habitats and Areas Associated ~~With~~with State Priority
37 Species. Priority habitats and species are considered to be priorities for
38 conservation and management. Priority species require protective
39 measures for their perpetuation due to their population status,
40 sensitivity to habitat alteration, and/or recreational, commercial, or
41 tribal importance. Priority habitats are those habitat types or elements
42 with unique or significant value to a diverse assemblage of species. A
43 priority habitat may consist of a unique vegetation type or dominant

- 1 plant species, a described successional stage, or a specific structural
2 element. Priority habitats and species are identified by the state
3 Department of Fish and Wildlife.
- 4 e. Habitats and Species of Local Importance. Habitats and species of
5 local importance are those identified by the city, including but not
6 limited to those habitats and species that, due to their population status
7 or sensitivity to habitat manipulation, warrant protection. Habitats may
8 include a seasonal range or habitat element with which a species has a
9 primary association, and which, if altered, may reduce the likelihood
10 that the species will maintain and reproduce over the long-term.
- 11 f. All areas within the city meeting the definition of one or more critical
12 areas defined above are hereby designated critical areas and are subject
13 to the provisions of the SMP.
- 14 56. “Formation” means an assemblage of earth materials grouped together into a
15 unit that is convenient for description or mapping.
- 16 57. “Formation, confining” means the relatively impermeable formation
17 immediately overlaying a confined aquifer.
- 18 58. “Geologically hazardous areas” means areas that because of their
19 susceptibility to erosion, sliding, earthquake, or other geological events, are
20 not suited to the siting of commercial, residential, or industrial development
21 consistent with public health or safety concerns.
- 22 59. "Geotechnical report" or "geotechnical analysis" means a scientific study or
23 evaluation conducted by a qualified expert that includes a description of the
24 ground and surface hydrology and geology, the affected land form and its
25 susceptibility to mass wasting, erosion, and other geologic hazards or
26 processes, conclusions and recommendations regarding the effect of the
27 proposed development on geologic conditions, the adequacy of the site to be
28 developed, the impacts of the proposed development, alternative approaches
29 to the proposed development, and measures to mitigate potential site-specific
30 and cumulative geological and hydrological impacts of the proposed
31 development, including the potential adverse impacts on adjacent and down-
32 current properties. Geotechnical reports shall conform to accepted technical
33 standards and must be prepared by qualified professional engineers or
34 geologists who have professional expertise about the regional and local
35 shoreline geology and processes.
- 36 60. “Grading” means the movement or redistribution of the soil, sand, rock,
37 gravel, sediment, or other material on a site in a manner that alters the natural
38 contour of the land.
- 39 61. “Groin” means a barrier type of structure extending from the stream bank into
40 a waterbody for the purpose of the protection of a shoreline and adjacent
41 uplands by influencing the movement of water or deposition of materials.
- 42 62. “Ground cover” means all types of vegetation other than trees.

- 1 63. “Groundwater management program” means a comprehensive program
2 designed to protect groundwater quality, to ensure groundwater quantity, and
3 to provide for efficient management of water resources while recognizing
4 existing groundwater rights and meeting future needs consistent with local and
5 state objectives, policies and authorities within a designated groundwater
6 management area or subarea developed pursuant to Chapter 173-100 WAC.
- 7 64. "Guidelines" means those standards adopted by the department to implement
8 the policy of chapter 90.58 RCW for regulation of use of the shorelines of the
9 state prior to adoption of master programs. Such standards shall also provide
10 criteria for local governments and the department in developing and amending
11 master programs.
- 12 ~~65. “Geologically hazardous areas” means areas susceptible to erosion, sliding,
13 earthquake, or other geological events. They pose a threat to the health and
14 safety of citizens when incompatible commercial, residential, or industrial
15 development is sited in areas of significant hazard.~~
- 16 ~~66. "Geotechnical report" or "geotechnical analysis" means a scientific study or
17 evaluation conducted by a qualified expert that includes a description of the
18 ground and surface hydrology and geology, the affected land form and its
19 susceptibility to mass wasting, erosion, and other geologic hazards or
20 processes, conclusions and recommendations regarding the effect of the
21 proposed development on geologic conditions, the adequacy of the site to be
22 developed, the impacts of the proposed development, alternative approaches
23 to the proposed development, and measures to mitigate potential site specific
24 and cumulative geological and hydrological impacts of the proposed
25 development, including the potential adverse impacts on adjacent and down-
26 current properties. Geotechnical reports shall conform to accepted technical
27 standards and must be prepared by qualified professional engineers or
28 geologists who have professional expertise about the regional and local
29 shoreline geology and processes.~~
- 30 ~~67. “Grading” means the movement or redistribution of the soil, sand, rock,
31 gravel, sediment, or other material on a site in a manner that alters the natural
32 contour of the land.~~
- 33 ~~68. “Groin” means a barrier type of structure extending from the stream bank into
34 a waterbody for the purpose of the protection of a shoreline and adjacent
35 uplands by influencing the movement of water or deposition of materials.~~
- 36 ~~69. “Ground cover” means all types of vegetation other than trees.~~
- 37 ~~70. "Guidelines" means those standards adopted by the department to implement
38 the policy of chapter 90.58 RCW for regulation of use of the shorelines of the
39 state prior to adoption of master programs. Such standards shall also provide
40 criteria for local governments and the department in developing and amending
41 master programs.~~

- 1 ~~71-65.~~ “Hazard areas” means areas designated as geologically hazardous areas due to
2 potential for erosion, landslide, seismic activity, mine collapse, or other
3 geologically hazardous conditions, including steep slopes.
- 4 ~~72-66.~~ “Hazard tree” means any tree with any significant structural defect, disease,
5 extreme size or combinations of these which make it subject to failure, as
6 determined by the Shoreline Administrator or her/his designee.
- 7 ~~73-67.~~ “Hazardous substance(s)” means:
- 8 a. A hazardous substance as defined by Section 101(14) of the
9 Comprehensive Environmental Response, Compensation, and Liability
10 Act (CERCLA); any substance designated pursuant to Section
11 311(b)(2)(A) of the Clean Water Act (CWA); any hazardous waste
12 having the characteristics identified under or listed pursuant to Section
13 3001 of the Solid Waste Disposal Act (but not including any waste the
14 regulation of which under the Solid Waste Disposal Act has been
15 suspended by Act of Congress); any toxic pollutant listed under
16 Section 307(a) of the CWA; or any imminently hazardous chemical
17 substance or mixture with respect to which the United States
18 Environmental Protection Agency has taken action pursuant to Section
19 7 of the Toxic Substances Control Act;
- 20 b. Hazardous substances that include any liquid, solid, gas, or sludge,
21 including any material, substance, product, commodity, or waste,
22 regardless of quantity, that exhibits any of the physical, chemical, or
23 biological properties described in WAC 173-303-090 or 173-303-100.
- 24 ~~74-68.~~ “Heavy equipment” means such construction machinery as backhoes, treaded
25 tractors, dump trucks, and front-end loaders.
- 26 ~~75-69.~~ “Hydraulic project approval (HPA)” means a permit issued by the state of
27 Washington’s Department of Fish and Wildlife for modification to waters of
28 the state in accordance with Chapter 77.55 RCW.
- 29 ~~76-70.~~ “Impacts” means adverse effects of one thing upon another.
- 30 ~~77-71.~~ “Impervious surface area” means any non-vertical surface artificially covered
31 or hardened so as to prevent or impede the percolation of water into the soil
32 mantle including, but not limited to, roof tops, swimming pools, paved or
33 graveled roads and walkways or parking areas, and excluding landscaping and
34 surface water retention/detention facilities.
- 35 ~~78-72.~~ “Invasive, non-native vegetation species” means the plants listed for Eastern
36 Washington in Washington State Noxious Weed Board Publication # 820-
37 264E (N/6/09), or the latest version of this document.
- 38 ~~79-73.~~ “Landslide” means episodic down slope movement of a mass of soil or rock
39 that includes, but is not limited to, rock falls, slumps, mudflows, and earth
40 flows.

- 1 80.74. “Landslide hazard areas” means areas that are potentially subject to risk of
2 mass movement due to a combination of geologic, topographic, and
3 hydrologic factors.
- 4 81.75. “Local habitat area” means an area that contains sufficient food, water, or
5 cover for native terrestrial or aquatic species that the City has identified as
6 being of significant local concern.
- 7 82.76. “Long-term commercial significance” means the capacity, productivity and
8 soil composition of land for long-term commercial production, in
9 consideration with the land’s proximity to population areas, and the possibility
10 of more intense uses of the land.
- 11 83.77. “Major development” includes proposed development projects that are subject
12 to objective and subjective standards that require the exercise of limited
13 discretion about nontechnical issues and which may require a public hearing.
14 The proposed development may or may not be subject to SEPA review;
15 however, any project action not listed as categorically exempt from SEPA
16 review shall be considered a “major development” for the purposes of this
17 title. Included within this type of development are subdivisions, conditional
18 use permits, planned residential developments, shoreline substantial
19 development permits and other similar applications.
- 20 84.78. “Minor development” includes proposed development projects that are subject
21 to clear, objective and nondiscretionary standards that require the exercise of
22 professional judgment about technical issues and the proposed development is
23 exempt from the State Environmental Policy Act (SEPA). Included within this
24 type of development are single-family building permits, temporary use
25 permits, boundary line adjustments, short subdivisions, home occupations, and
26 accessory uses and/or structures.
- 27 85.79. “Mitigation” means actions that the approving agency shall require so as to
28 avoid or compensate for impacts to critical areas resulting from the proposed
29 project activity. The type(s) of mitigation required shall be considered and
30 implemented, where feasible, in the following sequential order of preference:
- 31 a. Avoiding the impact altogether by not taking a certain action or parts
32 of an action;
- 33 b. Minimizing impacts by limiting the degree or magnitude of the action
34 and its implementation;
- 35 c. Rectifying the impact by repairing, rehabilitating, or restoring the
36 affected environment;
- 37 d. Reducing or eliminating the impact over time by preservation and
38 maintenance operations during the life of the action;
- 39 e. Compensating for the impact by replacing or providing substitute
40 resources or environments; or

- 1 f. Monitoring the impact and taking appropriate corrective measures to
2 achieve the identified goal.
- 3 ~~86.80.~~ “Monitoring” means the collection of data by various methods for the purpose
4 of understanding natural systems and features, evaluating the impact of
5 development proposals on such systems, and/or assessing the performance of
6 mitigation measures imposed as conditions of development.
- 7 ~~87.81.~~ “Must” means a mandate; the action is required.
- 8 ~~88.82.~~ “Native,” when referring to plants or plant communities, means those species
9 or communities that are indigenous to the watershed, including extirpated
10 species.
- 11 ~~89.83.~~ “New construction” means structures for which the “start of construction”
12 commenced on or after the effective date of the ordinance codified in this
13 chapter.
- 14 84. “Nonconforming lot” means a lot that met dimensional requirements of the
15 applicable master program at the time of its establishment but now contains
16 less than the required width, depth or area due to subsequent changes to the
17 master program.
- 18 ~~90.85.~~ “Nonconforming use or development” means a shoreline use or development
19 which was lawfully constructed or established prior to the effective date of the
20 act or the applicable master program, or amendments thereto, but which does
21 not conform to present regulations or standards of the program. Residential
22 structures and appurtenant structures that were legally established and are
23 used for a conforming use, but that do not meet standards for the ~~following~~
24 are following are considered conforming structures: setbacks, buffers, or yards;
25 area; bulk; height; or density.
- 26 ~~91.86.~~ “Non-water-oriented uses” means those uses that are not water-dependent,
27 water-related, or water-enjoyment.
- 28 ~~92.87.~~ “Normal maintenance” means those usual acts that are necessary to prevent a
29 property’s decline, lapse, or cessation from a lawfully established condition.
- 30 ~~93.88.~~ “Normal repair” means to restore a structure or development to a state
31 comparable to its original condition including, but not limited to, its size,
32 shape, configuration, location and external appearance, within a reasonable
33 period after decay ~~or partial or partial~~ destruction, except where repair causes
34 substantial adverse impacts on shoreline resources or environment.
35 Replacement of a structure or development may be authorized as repair where
36 such replacement is the common method of repair for the type of structure or
37 development, and the replacement structure or development is comparable to
38 the original structure or development including, but not limited to, its size,
39 shape, configuration, location and external appearance and the replacement
40 does not cause substantial adverse impacts on shoreline resources or
41 environment.

1 94.89. "Ordinary high water mark (OHWM)" means that mark that will be found by
2 examining the bed and banks and ascertaining where the presence and action
3 of waters are so common and usual, and so long continued in all ordinary
4 years, as to mark upon the soil a character distinct from that of the abutting
5 upland, in respect to vegetation as that condition exists on June 1, 1971, as it
6 may naturally change or change through hydrology thereafter, or as it may
7 change thereafter in accordance with permits issued by a local government or
8 the department. Where the OHWM cannot be found, it shall be the line of
9 mean high water.

10 95.90. "Person" means an individual, partnership, corporation, association,
11 organization, cooperative, public or municipal corporation, or any agency of
12 the state or local governmental unit however designated.

13 96.91. "Passive recreation" means activities that refresh or restore one's strength,
14 spirits or vitality through observation of an action without responding or
15 acting in return.

16 97.92. "Primary association" means key habitat components that are critical to the
17 life cycle of native wildlife species, i.e., nesting sites, wintering areas, and
18 migration corridors. Loss of these values will result in fragmentation into
19 subpopulations or extinction of populations from local areas.

20 98.93. "Priority habitats and species program" means Washington Department of
21 Wildlife's system of classifying habitats and associated species that are of
22 specific concern due to population status and/or sensitivity to habitat
23 manipulation.

24 99.94. "Public Access" means both physical and visual access. Public access
25 includes the ability of the general public to reach, touch, and enjoy the water's
26 edge, to travel on the waters of the state, and to view the water and the
27 shoreline from adjacent locations. Examples are listed below:

- 28 a. Visual Access. Visual public access may consist of view corridors,
29 viewpoints, or other means of visual approach to public waters.
- 30 b. Physical Access. Physical public access may consist of a dedication of
31 land or easement and a physical improvement in the form of a
32 walkway, trail, bikeway, park, canoe and kayak hand launch site, or
33 other area serving as a means of physical approach to public waters.

34 100.95. "Qualified professional" means a person with experience and training in the
35 pertinent discipline, and who is a qualified expert with expertise appropriate
36 for the relevant critical area or shoreline subject. A qualified professional must
37 have obtained a B.S., B.A. or equivalent degree or certification in biology,
38 engineering, environmental studies, fisheries, geomorphology, landscape
39 architecture, forestry or related field, and two years of related work
40 experience.

- 1 a. A qualified professional for wildlife, habitats or wetlands must have a
2 degree in biology, zoology, ecology, fisheries, or related field, and
3 professional experience in Washington State.
 - 4 b. A qualified professional for a geological hazard must be a professional
5 engineer or geologist, licensed in the state of Washington.
 - 6 c. A qualified professional for critical aquifer recharge areas means a
7 hydrogeologist, geologist, engineer, or other scientist with experience
8 in preparing hydrogeologic assessments.
 - 9 d. A qualified professional for vegetation management must be a
10 registered landscape architect, certified arborist, biologist, or
11 professional forester with a corresponding degree or certification.
 - 12 e. A qualified archaeologist must be a person qualified for addressing
13 cultural and historical resources protection and preservation, with a
14 degree in archaeology, anthropology, history, classics or other
15 germane disciplines with a specialization in archaeology and/or
16 historic preservation and with a minimum of two years' experience in
17 preparing cultural resource site assessments reports.
- 18 ~~101.96.~~ "Recreational development" means the modification of the natural or existing
19 environment to accommodate commercial and public facilities designed and
20 used to provide recreational opportunities to the public. Commercial
21 recreational development should be consistent with commercial development
22 defined herein.
- 23 ~~102.97.~~ "Recreational vehicle" means a vehicle designed primarily for recreational
24 camping, travel, or seasonal use that has its own mode of power or is mounted
25 on or towed by another vehicle, including, but not limited, to travel trailers,
26 folding camping trailer, truck camper, motor home, , and multi-use vehicles.
- 27 ~~103.98.~~ "Regulated activities" include land clearing, grading, placement of fill or
28 waste material, removal of protected native vegetation, construction, platting,
29 zone changes and other habitat-altering activities.
- 30 ~~104.99.~~ "Residential development" entails one or more buildings, structures, lots,
31 parcels or portions thereof that are designed, used or intended to be used as a
32 place of abode for human beings. These include single-family residences,
33 residential subdivisions, short residential subdivisions, attached dwellings, and
34 all accessory uses or structures normally associated with residential uses.
35 Accessory residential uses include, but are not limited to, garages, sheds,
36 tennis courts, swimming pools, parking areas, fences, cabanas, saunas and
37 guest cottages. Hotels, motels, dormitories or any other type of overnight or
38 transient housing are excluded from the residential category and must be
39 considered commercial uses depending on project characteristics.
- 40 ~~105.100.~~ "Restoration" means actions performed to reestablish wetland functional
41 characteristics and processes which have been lost by alterations, activities or

- 1 catastrophic events within an area which no longer meets the definition of a
2 wetland.
- 3 ~~106.101.~~ “Review authority” means the decision maker that issues the final land use
4 order, not the appeal authority.
- 5 ~~107.102.~~ “Riparian habitat” means areas adjacent to aquatic systems with flowing
6 water that contains elements of both aquatic and terrestrial ecosystems that
7 mutually influence each other.
- 8 ~~108.103.~~ “Seismic hazard areas” means areas that are subject to severe risk of
9 damage as a result of earthquake-induced ground shaking, slope failure,
10 settlement, or soil liquefaction.
- 11 ~~109.104.~~ “Sensitive species” are species native to Washington that are vulnerable or
12 declining, and are likely to become endangered or threatened in a significant
13 portion of their ranges within the state, without cooperative management or
14 the removal of the threats. These species are designated in WAC 232-12-011.
- 15 ~~110.105.~~ “SEPA” means State Environmental Policy Act, Chapter 42.21C RCW
16 and Chapter 197-11 WAC.
- 17 ~~111.106.~~ "Shall" means a mandate; the action must be done.
- 18 ~~112.107.~~ "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the
19 state" and "shorelands" as defined in RCW 90.58.030.
- 20 ~~113.108.~~ "Shoreline master program" or "master program" means the
21 comprehensive use plan for a described area, and the use regulations together
22 with maps, diagrams, charts, or other descriptive material and text, a statement
23 of desired goals, and standards developed in accordance with the policies
24 enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals
25 and policies of a shoreline master program for a City or City approved under
26 chapter 90.58 RCW shall be considered an element of the City or City’s
27 comprehensive plan. All other portions of the shoreline master program for a
28 City or City adopted under chapter 90.58 RCW, including use regulations,
29 shall be considered a part of the City or City’s development regulations.
- 30 ~~114.109.~~ "Shoreline modifications" means those actions that modify the physical
31 configuration or qualities of the shoreline area, usually through the
32 construction of a physical element such as a dike, weir, dredged basin, fill,
33 bulkhead, or other shoreline structure. They can include other actions, such as
34 clearing, grading, or application of chemicals
- 35 ~~115.110.~~ “Shoreline stabilization” means actions taken to address erosion impacts
36 to property and dwellings, businesses, or structures caused by natural
37 processes, such as current, wind, or wave action. These actions include
38 structural and nonstructural methods. Nonstructural methods include building
39 setbacks, relocation of the structure to be protected, ground water
40 management, planning and regulatory measures to avoid the need for
41 structural stabilization.

- 1 ~~116.111.~~ "Should" means that the particular action is required unless there is a
2 demonstrated, compelling reason, based on policy of the Shoreline
3 Management Act and this chapter, against taking the action
- 4 ~~117.112.~~ "Sole source aquifer" means an aquifer designated by EPA as the sole or
5 principal source of drinking water for a given aquifer service area; that is, an
6 aquifer which is needed to supply 50 percent or more of the drinking water for
7 that area and for which there are no reasonably available alternative sources
8 should the aquifer become contaminated.
- 9 ~~118.113.~~ "Species and habitats of local importance" means those species that may
10 not be endangered, threatened, or critical from a state-wide perspective, but
11 are of local concern due to their population status, sensitivity to habitat
12 manipulation, or other educational, cultural, or historic attributes. These
13 species may be priority habits, priority species, and those habitats and species
14 identified in the critical areas code as having local importance (e.g., elk).
- 15 ~~119.114.~~ "Species, threatened and endangered" means those native species that are
16 listed by the State Department of Fish and Wildlife pursuant to RCW
17 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-
18 014), or that are listed as threatened or endangered under the federal
19 Endangered Species Act (16 U.S.C. 1533).
- 20 ~~120.115.~~ "Start of construction" means the date the building permit was issued,
21 provided the actual start of construction, placement of a manufactured home
22 on a foundation or other permanent construction beyond the stage of
23 excavation was within 180 days of the permit date.
- 24 a. The "actual start" means either the first placement of permanent
25 construction of a structure on a site, such as the pouring of slab or
26 footings, the installation of piles, the construction of columns, or any
27 work beyond the stage of excavation, or the placement of a
28 manufactured home on a foundation.
- 29 b. "Permanent construction" does not include:
- 30 i. Land preparation, such as clearing, grading and filling;
- 31 ii. Installation of streets and/or walkways;
- 32 iii. Excavation for a basement, footings, piers, or foundation or the
33 erection of temporary forms;
- 34 iv. Construction of accessory buildings, such as garages or sheds
35 not occupied as dwelling units or not part of the main structure.
- 36 ~~121.116.~~ "State listed monitor species" means native species that:
- 37 a. Were at one time classified as endangered, threatened, or sensitive;
- 38 b. Require habitat that has limited availability during some portion of its
39 life cycle;
- 40 c. Are indicators of environmental quality;

- 1 d. Require further field investigations to determine population status;
- 2 e. Have unresolved taxonomy which may bear upon their status
- 3 classification;
- 4 f. May be competing with and having impacts on other species of
- 5 concern; or
- 6 g. Have significant popular appeal.

7 ~~122.117.~~ “Steep slopes” means those slopes (excluding City-approved geotechnical
8 engineered slopes) 40 percent or steeper within a vertical elevation change of
9 at least 10 feet. A slope is defined by establishing its toe and top and is
10 measured by averaging the inclination over at least 10 feet of vertical relief.

11 ~~123.118.~~ “Stream” means any portion of a channel, bed, bank, or bottom waterward
12 of the ordinary high water line of waters of the state, including areas in which
13 fish may spawn, reside, or pass, and tributary waters with defined bed or
14 banks, which influence the quality of fish habitat downstream. This includes
15 watercourses which flow on an intermittent basis or which fluctuate in level
16 during the year and applies to the entire bed of such watercourse whether or
17 not the water is at peak level. This definition does not include irrigation
18 ditches, canals, storm water run-off devices, or other entirely artificial
19 watercourses, except where they exist in a natural watercourse that has been
20 altered by humans.

21 ~~124.119.~~ "Structure" means a permanent or temporary edifice or building, or any
22 piece of work artificially built or composed of parts joined together in some
23 definite manner, whether installed on, above, or below the surface of the
24 ground or water

25 ~~125.120.~~ “Substantial damage” means damage of any origin sustained by a structure
26 whereby the costs of restoring the structure to its before damaged condition
27 would equal or exceed 50 percent of the market value of the structure before
28 the damage occurred.

29 ~~126.121.~~ "Substantially degrade" means to cause significant ecological impact.

30 ~~127.122.~~ “Substantial improvement” means any repair, reconstruction, or
31 improvement of a structure, the cost of which equals or exceeds 50 percent of
32 the market value of the structure either:

- 33 a. Before the improvement or repair is started; or
- 34 b. If the structure has been damaged and is being restored, before the
- 35 damage occurred. For the purpose of this definition “substantial
- 36 improvement” is considered to occur when the first alteration of any
- 37 wall, ceiling, floor, or other structural part of the building commences,
- 38 whether or not that alteration affects the external dimensions of the
- 39 structure.

40 ~~128.123.~~ “Threatened species” are native to the state of Washington and likely to
41 become endangered in the foreseeable future throughout a significant portion

1 of their ranges within the state without cooperative management or the
2 removal of threats. Threatened species are legally designated in WAC 232-12-
3 011.

4 ~~129.124.~~ “Topping” means the severing of main trunks or stems of vegetation at
5 any place above 25 percent of the vegetation height.

6 ~~130.125.~~ “Transportation facilities” are those structures and developments that
7 provide for the movement of people, goods and services. These include roads
8 and highways, railroad facilities, bridges, parking facilities, bicycle paths,
9 trails and other related facilities.

10 ~~131.126.~~ “Tree removal” means the removal of a tree, through either direct or
11 indirect actions, including but not limited to: (a) clearing, damaging or
12 poisoning resulting in an unhealthy or dead tree; (b) removal of at least half of
13 the live crown; or (c) damage to roots or trunk that is likely to destroy the
14 tree’s structural integrity.

15 ~~132.127.~~ “Trees” means any living woody plant characterized by one main stem or
16 trunk and many branches and having a diameter of four inches or more
17 measured 24 inches above ground level

18 ~~133.128.~~ “Triggering application” means an application for one of the permits or
19 approvals listed in this chapter.

20 ~~134.129.~~ “Unavoidable” means adverse impacts that remain after all appropriate
21 and practicable avoidance and minimization have been achieved.

22 ~~135.130.~~ “Utility” means a service and/or facility that produces, transmits, carries,
23 stores, processes, or disposes of electrical power, gas, potable water,
24 stormwater, communications (including, but not limited to, telephone and
25 cable), sewage, oil, and the like.

26 ~~136.131.~~ “Vegetation” means plant life growing below, at, and above the soil
27 surface.

28 ~~137.132.~~ “Vegetation alteration” means any clearing, grading, cutting, topping,
29 limbing, or pruning of vegetation.

30 ~~138.133.~~ “Water-dependent use” means a use or portion of a use which cannot exist
31 in a location that is not adjacent to the water and which is dependent on the
32 water by reason of the intrinsic nature of its operations.

33 ~~139.134.~~ “Water-enjoyment use” means a recreational use or other use that
34 facilitates public access to the shoreline as a primary characteristic of the use;
35 or a use that provides for recreational use or aesthetic enjoyment of the
36 shoreline for a substantial number of people as a general characteristic of the
37 use and which through location, design, and operation ensures the public's
38 ability to enjoy the physical and aesthetic qualities of the shoreline. In order to
39 qualify as a water-enjoyment use, the use must be open to the general public
40 and the shoreline-oriented space within the project must be devoted to the
41 specific aspects of the use that fosters shoreline enjoyment.

1 ~~140.135.~~ "Water-oriented use" means a use that is water-dependent, water-related,
2 or water-enjoyment, or a combination of such uses.

3 ~~141.136.~~ "Water quality" means the physical characteristics of water within
4 shoreline jurisdiction, including water quantity, hydrological, physical,
5 chemical, aesthetic, recreation-related, and biological characteristics. Where
6 used in this chapter, the term "water quantity" refers only to development and
7 uses regulated under this chapter and affecting water quantity, such as
8 impermeable surfaces and storm water handling practices. Water quantity, for
9 purposes of this chapter, does not mean the withdrawal of ground water or
10 diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

11 ~~142.137.~~ "Water-related use" means a use or portion of a use which is not
12 intrinsically dependent on a waterfront location but whose economic viability
13 is dependent upon a waterfront location because:

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

20 ~~143.138.~~ "Wellhead protection area" means the surface and subsurface area
21 surrounding a water well or well field, supplying a public water system,
22 through which contaminants are reasonably likely to move toward and reach
23 such water well or well field.

24 ~~144.139.~~ "Wetland" or "wetlands" means areas that are inundated or saturated by
25 surface water or groundwater at a frequency and duration sufficient to support,
26 and that under normal circumstances do support, a prevalence of vegetation
27 typically adapted for life in saturated soil conditions. Wetlands generally
28 include swamps, marshes, bogs and similar areas. Wetlands do not include
29 those artificial wetlands intentionally created from nonwetland sites, including
30 but not limited to irrigation and drainage ditches, grass-lined swales, canals,
31 detention facilities, wastewater treatment facilities, farm ponds and landscape
32 amenities, or those wetlands created after July 1, 1990, that were
33 unintentionally created as a result of the construction of a road, street, or
34 highway. Wetlands may include those artificial wetlands intentionally created
35 from nonwetland areas created to mitigate conversion of wetlands.

36 **14.08.970 Shoreline Environment Designation Map**