RESOLUTION 2012-HH

A RESOLUTION OF THE EATONVILLE TOWN COUNCIL CONDITIONALLY APPROVING THE TOWN OF EATONVILLE SHORELINE MASTER PROGRAM

WHEREAS, The Washington State Shoreline Management Act (RCW 90.58) was passed by the State Legislature in 1971 "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines" and to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values; and

WHEREAS, The Shoreline Management Act requires all local governments that include Shorelines of the State to prepare Shoreline Master Programs (SMPs) to protect shoreline resources by regulating development and to provide for appropriate shoreline uses; and

WHEREAS, The Town of Eatonville adopted shoreline regulations under the Shoreline Management Act in 1975 and pursuant to RCW 90.58.080, the SMP is required to be updated by December 1, 2011 to address emerging shoreline issues and revisions of State guidelines; and

WHEREAS, The Town of Eatonville received a $75,000 grant from the Department of Ecology to conduct a comprehensive update of the SMP consistent with the guidelines set forth in WAC 173-26; and

WHEREAS, The Washington Administrative Code (WAC 173-26) establishes the basic elements of the process to prepare the Program that include a public participation plan; a shoreline inventory and characterization; the establishment of shoreline environment designations; shoreline goals, policies and use regulations; and supplemental documents including a Cumulative Impact Analysis, Restoration Plan, and No Net Loss Summary; and

WHEREAS, The Eatonville Planning Commission was designated in the Public Participation Plan as the primary advisory body responsible for the preparation of the SMP and in so doing conducted public open houses October 5, 2009 and February 23, 2010; and

WHEREAS, The Planning Commission has carefully reviewed the Inventory and Characterization Report, Cumulative Impact Assessment and Restoration Plan, as supplemental documents to the draft SMP; and

WHEREAS on December 5, 2011, the Eatonville Planning Commission passed a motion recommending that the draft Shoreline Master Program SMP be sent for approval to the Town Council; and

WHEREAS, a Determination of Non-Significance on the SMP under the State Environmental Policy Act (chapter 43.21C RCW) was issued on October 25, 2011, and no person filed any appeal therefrom; and

WHEREAS, a notice of public hearing at the town council was advertised in the Eatonville Dispatch newspaper on May 23, 2012, posted around the Town on May 15, 2012 and

sent to shoreline property owners in the Town limits and Municipal Urban Growth Area on May 15, 2012; and

WHEREAS, a duly noticed public hearing on the update of the Eatonville Shoreline Master Program is being conducted concurrent with consideration of this resolution on June 11, 2012;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Eatonville as follows:

Section 1. The Eatonville Town Council intends to adopt the 2012 draft Shoreline Master Program, as attached hereto, upon approval from the Washington State Department of Ecology.

Section 2. The mayor or his designee is authorized to forward the 2012 draft Shoreline Master Program and all other required submittal documents, as attached hereto, to the Washington Department of Ecology for review and approval, and this resolution shall constitute the Town's documentation under WAC 173-26-110(1) that the Town Council has approved the proposal referenced herein.

Passed by the Council of the Town of Eatonville at a regular meeting this _____ day of June, 2012.

_____
Raymond Harper, Mayor

ATTEST:

_____
Kathy Linnemeyer, Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Draft

TOWN OF EATONVILLE
SHORELINE MASTER PROGRAM

November, 2011

Table of Contents

Chapter 1. INTRODUCTION 1
1.1 Introduction 1
1.2 How to Use This Program 2
1.3 Purpose 3
1.4 Title 3
1.5 Adoption Authority 3
1.6 Applicability 4
1.7 Liberal Construction 4
1.8 Severability 4
1.9 Urban Growth Area 4
1.10 Shoreline Jurisdiction 4
1.11 Document Organization 5
Chapter 2. SHORELINE GOALS 7
2.1 Economic Development 7
2.2 Public Access 7
2.3 Recreation 7
2.4 Shoreline Use 8
2.5 Conservation and Restoration 8
2.6 Restoration 8
2.7 Archaeological, Historical, Cultural, Scientific and Educational Resources 8
2.8 Flood Hazard Management 8
Chapter 3. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS 9
3.1 Shoreline Jurisdiction 9
3.2 Shoreline Environment Designations System 9
3.3 Environment Designations Purpose, Criteria, and Policies 10
3.4 Use and Standards Tables 12
3.5 Official Shoreline Map 14
Chapter 4. GENERAL USE POLICIES AND REGULATIONS 17
4.1 Shoreline Use 17
4.2 Archeological, Historical and Cultural Resources 17
4.3 Environmental Protection and Critical Areas 18
4.4 Flood Hazard Reduction 21
4.5 Public Access 22
4.6 Shoreline Vegetation Conservation 24
4.7 Water Quality 25
4.8 Restoration 26
4.9 Views and Aesthetic 27

Chapter 5. SHORELINE MODIFICATION 29
5.1 Shoreline Stabilization 29
5.2 Fill, Excavation, Ditching, Clear and Grade 31
5.3 Dredging and Dredge Material Disposal 33
5.4 In-stream Structures 34
Chapter 6. USE SPECIFIC SHORELINE POLICIES AND REGULATIONS 37
6.1 Prohibited Uses 37
6.2 Agriculture 37
6.3 Commercial 37
6.4 Recreation 38
6.5 Residential 39
6.6 Transportation and Parking 41
6.7 Utilities 43
6.8 Unclassified Uses 45
Chapter 7. ADMINISTRATIVE PROVISIONS 47
7.1 General Compliance 47
7.2 Shoreline Permits and Exemptions 48
7.3 Statement of Exemption 51
7.4 Shoreline Variance 52
7.5 Shoreline Conditional Use Permit 53
7.6 Ecology Review 54
7.7 Minimum Permit Application Submittal Requirements 55
7.8 Appeals 57
7.9 Non-conforming Uses 58
Chapter 8. DEFINITIONS 61
8.1 Interpretation 61
8.2 Definitions 61
8.3 Unlisted Words and Phrases 69

List of Figures

Figure 1. Shoreline Environment Designations 15

List of Tables

Table 1. Shoreline Use Table 13
Table 2. Shoreline Development Standards 14

CHAPTER 1. INTRODUCTION

1.1 Introduction

The shorelines in the Town of Eatonville are an important resource used and enjoyed by the community and visitors. The Mashel and Little Mashel Rivers, Lynch Creek and Ohop Creek provide the community with clean water; residential building sites; habitat for a variety of fish and wildlife including salmon; and areas for recreation. The Town's shorelines are also a limited resource and sensitive to disturbance. Use and development in the shorelines must be carefully planned and regulated to ensure that these resources are available to future generations.

The Town of Eatonville's Shoreline Master Program (SMP) is a result of Washington State legislation requiring all jurisdictions to manage and protect shorelines of the state. Washington's Shoreline Management Act (SMA or "Act") was passed by the State Legislature and affirmed by the public in a referendum in 1972. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. SMA sought to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values. The Act specifically states:

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

The Act has three broad policies:

1. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."

2. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

3. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

The overall Vision for Eatonville's Shorelines is:

Develop and utilize the Town's shorelines in a responsible manner that is beneficial to the community and improves ecological functions overtime.

The Act recognizes that its goals for management of the shorelines carry the potential for conflict. Shorelines and the waters they encompass are among the most valuable and fragile of the state's natural resources. In the Town of Eatonville, they are valuable for fish and wildlife habitat, recreation, as a residential amenity as well as scientific research and education. Unbridled use of the shorelines could destroy their value while a prohibition of all uses would eliminate their human utility. Therefore, the SMA calls for the accommodation of "reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life." (WAC 173-26-176(2)).

The SMA's policy of achieving both shoreline utilization and protection is reflected in the state's provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water" (RCW 90.58.020).

The Town of Eatonville prepared this SMP to meet the requirements of the SMA and implement its visions for shoreline use and protection. This SMP provides goals and policies that reflect the Town's vision for its shorelines and implement the state's requirements. The SMP also includes regulations for shoreline uses and protection that implement the goals and policies and establish a permit system for administering the SMP.

Implementing the SMP must protect the ecological functions of shorelines and, at a minimum, achieve no net loss of ecological functions. Single-family residences, recreational uses, and other developments that depend on proximity to a shoreline are given priority provided they are designed and conducted to minimize damage to the ecology of the shoreline and/or interference with the public's use of the water.

1.2 How to Use This Program

If you propose to develop or alter lands adjacent to a shoreline of the state as defined in SMP Section 8.1 or propose work in the water, consult first with the Town Planner to determine if you need a shoreline permit; The Planner will also alert you about other necessary government approvals. To find out if your proposal is allowed by the Program, first determine the shoreline environment designation that applies to your site. Then check SMP Section 7.2 to determine if your proposal is exempt from a shoreline permit. If not, refer to Table 1 in Chapter 3 to see if the proposed use is allowed outright, allowed as a conditional use or prohibited. Then refer to the policies and shoreline district regulations in SMP Chapters 4 through 6. In some cases your proposal may be prohibited, but because of dimensional or other constraints, may be eligible for a shoreline variance (SMP Section 7.4).

Although your proposal may be allowed by Program regulations or even exempt from specific permit requirements, all proposals and activities in the shoreline must comply with relevant policies and regulations of the entire Program as well as the general purpose and intent of the SMP.

For new uses, development and alterations allowed under this Program, the Town must find that the proposal is generally consistent with the applicable policies and regulations, unless a variance is to be granted. When your proposal requires a Letter of Exemption, submit the proper application to the Town Planner. Processing of your application will vary depending on its size, value, and features.

1.3 Purpose

1. To guide the future development of shorelines in the Town of Eatonville in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (the "Act") as amended (RCW 90.58).

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

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

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

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

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

1.4 Title

This document shall be known and may be cited as the Town of Eatonville Shoreline Master Program (the "Program", "Master Program" or "SMP").

1.5 Adoption Authority

This Master Program is adopted under the authority granted by the Shoreline Management Act and WAC Chapter 173-26.

1.6 Applicability

All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required. The Town of Eatonville has the authority and responsibility to condition a project even if it is exempt from the requirement for a substantial development permit.

1.7 Liberal Construction

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

1.8 Severability

The Act and this Program adopted pursuant thereto comprise the basic state and Town law regulating use of shorelines in the Town of Eatonville. Should any section or provision of this program be declared invalid, such decision shall not affect the validity of this Program as a whole. In the event provisions of this Program conflict with other applicable Town policies or regulations in the shoreline, the provisions of this Program shall prevail.

1.9 Urban Growth Area

In addition to the Town's shoreline, the SMP update will consider and plan for the Town's Urban Growth Area (UGA). If annexed by the Town of Eatonville, the goals, policies and regulations of this program would be applied to those annexed areas.

1.10 Shoreline Jurisdiction

SMA jurisdiction includes all "shorelines of the state" as defined in RCW 90.58.030. In Eatonville, the shoreline area to be regulated by the Town's SMP includes:

- The Mashell River, Little Mashell River, Lynch Creek and Ohop Creek within both the Town's municipal boundary and its Urban Growth Area (UGA) (Map A, Appendix A).
- The upland area landward 200 feet of the OHWM of the afore listed waterbodies; and
- All associated wetlands.
- Floodways (as defined by RCW 90.58.030(2)(g)) and contiguous floodplain areas 200 feet landward from the floodway.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is "associated" if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as a surface or groundwater connection.

The SMA further designates some shorelines as "shorelines of statewide significance". There are no "shorelines of statewide significance" located within Eatonville or its UGA.

1.11 Document Organization

The SMP establishes long-term planning goals and policies, specific development standards and use regulations, and permitting and administrative procedures. As such, the SMP is a stand-alone document that is linked to other town planning documents such as the Eatonville Comprehensive Plan and to the Eatonville Municipal Code (EMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Master Program Goals: provides a set of shoreline goals developed with the community meant to guide the development of policies and regulations.
- Chapter 3. Shoreline Environment Designations: establishes a purpose, identifies designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Use Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Modification Policies and Regulations – Establishes policies and regulations of shoreline modification activities and structures.
- Chapter 6. Specific Use Policies and Regulations – Establishes policies and regulations of specific uses in the shorelines.
- Chapter 7. Administrative Procedures: provides procedures and process for permit applications associated with shoreline development.
- Chapter 8. Definitions: provides definitions for terms used throughout the SMP.

CHAPTER 2. SHORELINE GOALS

The Town of Eatonville, by establishing this Program, intends to control and regulate future development as it affects the shoreline area. Development and redevelopment in the shoreline area should occur in a manner that maintains a balance between competing uses, does not impair shoreline ecological processes and functions, and results in the overall improvement of natural resources in the shoreline. An over-arching goal of the master program is to ensure that future use and development of the Town's shoreline results in no net loss of shoreline ecological functions.

The SMA of 1971 (RCW 90.58) and implementing guidelines (WAC 173-26, as amended) identify several land and water use elements to be addressed in the development of area-wide shoreline goals and policies. The SMA also provides that the Town should ensure that policies, regulations, plans and ordinances developed and administered on lands adjacent to the shoreline be implemented in a manner consistent with the goals, policies and regulations of the master program (RCW 90.58.340). The following set of shoreline goals provide the foundation and framework on which the balance of the SMP has been developed, commensurate with the intent and objectives of the SMA.

2.1 Economic Development

Economic development deals with the location and design of commercial uses and other developments that are particularly dependent on shoreline locations and/or access.

2.1.1 Goal

Promote healthy, orderly economic growth by encouraging economic activities that will be an asset to the local economy, which result in the optimum use of existing commercial areas for water-oriented uses, and which maintain the shoreline ecological functions.

2.2 Public Access

Public access addresses the need to provide the public with opportunities to public shorelines and waters. Public access is both the physical ability to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations.

2.2.1 Goal

Provide opportunities for physical and visual public access to the Town's shorelines when such access can be reasonably accommodated without human health or safety risks, without adverse effects on shoreline functions, and consistent with private property rights.

2.3 Recreation

Recreation addresses the preservation and expansion of recreational opportunities by means of land acquisition, development of recreational facilities on public lands, and other similar means.

2.3.1 Goal

Encourage water-oriented recreational opportunities and maximize public recreational opportunities of the shoreline in a manner that will not adversely affect shoreline functions.

2.4 Shoreline Use

Shoreline use addresses the general distribution, location, and pattern of land uses in the Town's shorelines.

2.4.1 Goal

Ensure that the land use patterns in the shorelines protect the existing character of the Town and protect existing shoreline environments, habitats, and ecological functions.

2.5 Conservation and Restoration

Conservation addresses the preservation of natural resources, including but not limited to wildlife habitat, natural hydrologic functions, as well as views and aesthetics.

2.5.1 Goal

Preserve and protect ecological functions and processes necessary to maintain shoreline natural resources, protect public health and safety, and preserve beneficial uses of the shoreline.

2.6 Restoration

Restoration addresses restoring and enhancing degraded shoreline functions such as water quality, hydrology, riparian vegetation or wildlife habitats.

2.6.1 Goal

Restore and enhance identified degraded ecological functions and processes of the shoreline over time.

2.7 Archaeological, Historical, Cultural, Scientific and Educational Resources

This is an element for the protection and restoration of buildings, sites, and areas having historic, cultural, educational or scientific values, including unknown archaeological resources that may be located in the shoreline area.

2.7.1 Goal

Identify, protect, preserve and restore important archeological, historic, cultural sites located in shoreline areas for educational and scientific values and enjoyment of the general public.

2.8 Flood Hazard Management

This element addresses planning for and implementing measures that reduce the risk to human safety, property, and shoreline functions of flooding.

2.8.1 Goal

Protect shoreline resources and shoreline development and ensure public safety through land use controls and implementation of federal, state and local flood hazard programs.

CHAPTER 3. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

3.1.1 Shoreline Jurisdiction Determined

1. The policies and regulations of this program shall apply to the waters of the Mashell River, Little Mashell River, Lynch Creek, Ohop Creek and their adjacent "shorelands" within the Eatonville Town Limits.

2. Jurisdictional shorelines are shown on the Official Shoreline Map appended to this document (Appendix A, Map A). The Official Shoreline Map does not necessarily identify or depict the lateral extent of shoreline jurisdiction or all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway and/or the presence of associated wetlands.

3. The lateral extent of shoreline jurisdiction shall be determined based on the criteria set forth in RCW 90.58.030.

3.2 Shoreline Environment Designations System

1. Shorelines are classified according to specific shoreline environment designations. The purpose of shoreline environment designations (SEDs) is to provide a uniform basis for applying policies and regulations in distinct shoreline areas having similar characteristics.

2. In accordance with the State's guidelines (WAC 173-26-211(2)(a)), Eatonville's shoreline designations are based on:

   a. The existing land use pattern;

   b. The biological and physical character of the shoreline; and

   c. The goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in WAC 173-26-211.

3. To accomplish the purpose of this Program the following shoreline environment designations have been established in the Town of Eatonville:

   a. Natural (N)

   b. Shoreline Residential (SR)

   c. Urban Conservancy (UC)

4. Shoreline Environment Designations are delineated on a map, and hereby incorporated as a part of this Program as the Official Shoreline Map (Appendix A, Map A). The Official Shoreline Map is for planning purposes only and shall be used to depict Shoreline Environment Designations.

5. The Town may, from time to time as new or improved information becomes available, modify the Official Shoreline Map consistent with state guidelines to more accurately represent, clarify, or interpret the true limits of the shorelines defined herein. The application of an SED to a particular shore segment shall not change except through an amendment to this SMP.

3.3 Environment Designations Purpose, Criteria, and Policies

For each shoreline environment designation a purpose, designation criteria, and general management policies are provided. Any areas within the Town's shoreline jurisdiction that have not been mapped and designated shall be designated Urban Conservancy in accordance with WAC 173-26-211 (2) (e) and will be managed and regulated under the identified goals, policies, and regulations of the Urban Conservancy designation.

3.3.1 Natural

1. Purpose

The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of intense development. These areas require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.

2. Designation Criteria

The "Natural" environment designation is assigned to publicly owned areas within the Mashell River shoreline that are set aside for conservation and recreation purposes.

3. Management Policies

4. Areas with a Natural designation should be managed for public recreation and conservations uses only. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

5. The following new uses should not be allowed in the "Natural" environment:

   a. Single-family Residential

   b. Commercial uses

   c. Industrial uses

   d. Non-water-oriented recreation

e. Roads, utility corridors, and parking areas that can be reasonably located outside of "Natural" designated shorelines.

6. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided they do not cause significant ecological impacts.

7. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.

3.3.2 Shoreline Residential

1. Purpose

The purpose of the Shoreline Residential environment is to accommodate residential development within Eatonville's shorelines that is consistent with WAC 173-26 and this Program.

2. Designation Criteria

The Shoreline Residential environment designation is applied to those areas of the Town's shorelines that are characterized predominantly by single-family development, have moderately or highly impaired ecological functions, and/or are planned and zoned for residential development.

3. Management Policies

a. The Town should maintain shoreline functions by applying dimensional standards such as setbacks, limiting new shoreline stabilization, and requiring vegetation conservation and/or enhancement when permitting development.

b. Development should be consistent with the no net loss policy, taking into account 1) the environmental limitations and sensitivity of the shoreline area, 2) proposed mitigation for anticipated impacts, 3) the level of infrastructure and services available, and 4) other comprehensive planning considerations.

c. Multifamily and commercial development in this designation should include public access and public recreation whenever feasible provided significant ecological impacts can be mitigated.

d. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

3.3.3 Urban Conservancy

1. Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses consistent with the Comprehensive Plan.

2. Designation Criteria

The "Urban Conservancy" environment is appropriate for shoreline areas that are relatively undisturbed compared to other shoreline areas in the Town, and retain desirable riparian characteristics such as minimal bank armoring and/or well developed streamside vegetation. These areas can accommodate planned urban development that is compatible with maintaining or restoring ecological functions. This designation is assigned to areas with the following characteristics:

a. They are suitable for water-related or water-enjoyment uses;

b. They contain open space, floodplain or other sensitive areas that should not be intensively developed;

c. They retain important ecological functions including intact or partially intact riparian areas and limited shoreline armoring even though partially developed; or

d. They have the potential for development that is compatible with ecological restoration.

3. Management Policies

a. The Town shall maintain shoreline functions by, applying development standards for setbacks, buffers, shoreline stabilization, vegetation conservation and enhancement, critical areas protection, and water quality to assure no net loss of shoreline ecological functions, and contribute to the restoration of ecological functions over time in areas where ecological degradation has occurred.

b. Uses that preserve the natural character of the area and preserve open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that restore ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

c. Activities and uses that would substantially degrade or permanently deplete the physical or biological resources of the area should be prohibited.

d. Multifamily and commercial development in this designation should include public access and public recreation whenever feasible provided significant ecological impacts can be mitigated.

3.4 Use and Standards Tables

All uses and developments in the Eatonville shoreline jurisdiction shall comply with the use regulations contained in Table 1. Refer to the text sections of this Program for all applicable provisions related to specific uses and development standards.

Table 1

Town of Eatonville SMP – Permitted Shoreline Uses

Land uses must be allowed in the underlying zoning district in addition to the Shoreline Environment Designation. All uses are subject to limitations, conditions and/or exceptions as provided in this Program and the Eatonville Zoning Code, Title 18.

P = Permitted use subject to policies and regulations of the Town and this Program C = Conditional use subject to policies and regulations and Ecology approval X = Prohibited use. Some exceptions may apply in all cases as noted in the Program	Shoreline Environment Designation		
Shoreline Use	**Shoreline Residential**	**Urban Conservancy**	**Natural**
Agriculture and Forest Practices	P	P	P
Dredging and Dredge Material Disposal	C	C	C
Fill, Excavation, Ditching, Clearing and Grading			
Landward of OHWM	P	P	P
Waterward of OHWM	C	C	C
Habitat Restoration and Enhancement	P	P	P
Mining	X	X	X
Public Recreational Use and Development			
Water –Oriented	P	P	P
Nonwater-Oriented	C	X	X
Residential Use and Development			
Single-family Residential	P	P	X
Multifamily Residential or Mixed-use	P	P	X
Industrial Use ad Developments	X	X	X
Commercial Use and Development			
Water –oriented	P	P	X
Non-water-Oriented	X	X	X
In-stream Structures			
Restoration related	P	P	P
Non-restoration related	C	C	C
Shoreline Stabilization			
Bioengineered or soft shoreline stabilization	C	C	C
New Structural Shoreline armoring	X	X	X
Replacement of structural shoreline armoring	C	C	C
Parking (primary use)	X	X	X
Transportation Use and Development (non trails)	P	P	P
Utility Use and Development	P	P	P

Table 2

Development Standards Table

Shoreline Development Standard	Shoreline Environment Designation		
	Shoreline Residential	**Urban Conservancy**	**Natural**
Shoreline Buffer	Mashell River: 200 ft Little Mashell River: 200ft Ohop Creek: 150 ft Lynch Creek: 150 ft	Mashell River: 200 ft Little Mashell River: 200ft Ohop Creek: 150 ft Lynch Creek: 150 ft	Mashell River: 200 ft Little Mashell River: 200ft Ohop Creek: 150 ft Lynch Creek: 150 ft
Setback from Critical Areas or Buffers	10'	10'	10'
Minimum Side Setback	SF-1,2,3: 8' C-2[1]	SF-1,2,3: 8' C-2: MU, AP[1]	SF-1,2: 8'
Height Limit	SF-1,2,3: 28' C-2[1]	SF-1,2,3: 28' C-2, MU:40[2] AP[3]	SF-1,2: 28'
Minimum Lot Area (sq ft) or Maximum Density (units/acre)	SF-1: 9,600 sq ft SF-2: 8,400 sq ft SF-3: 6,000 sq ft C-2: 10,000 sq ft	SF-1: 9,600 sq ft SF-2: 8,400 sq ft SF-3: 6,000 sq ft C-2: 10,000 sq ft MU: 15/ac AP: 21,500 sq ft	SF-1: 9,600 sq ft SF-2: 8,400 sq ft
Max site coverage	SF-1: 30% SF-2:40% SF-3: 40% C-2: 40%	SF-1: 30% SF-2: 40% SF-3: 40% C-2: 40% *MU:40%* AP[4]	SF-1: 30% *SF-2: 30%*

Legend

SF-1: Single-family residential district, low density
SF-2: Single-family residential district, medium density
SF-3: Single-family residential district, high density
C-2: General commercial district
MU: Mixed use district
Ind: Industrial district
AP: Aerospace zone

Notes:

Shoreline environment development standards which differ or may differ from the underlying zoning standards are shown in italics

[1] The minimum side yard setback shall be determined according to the provisions of EMC 18.04.140 - 185

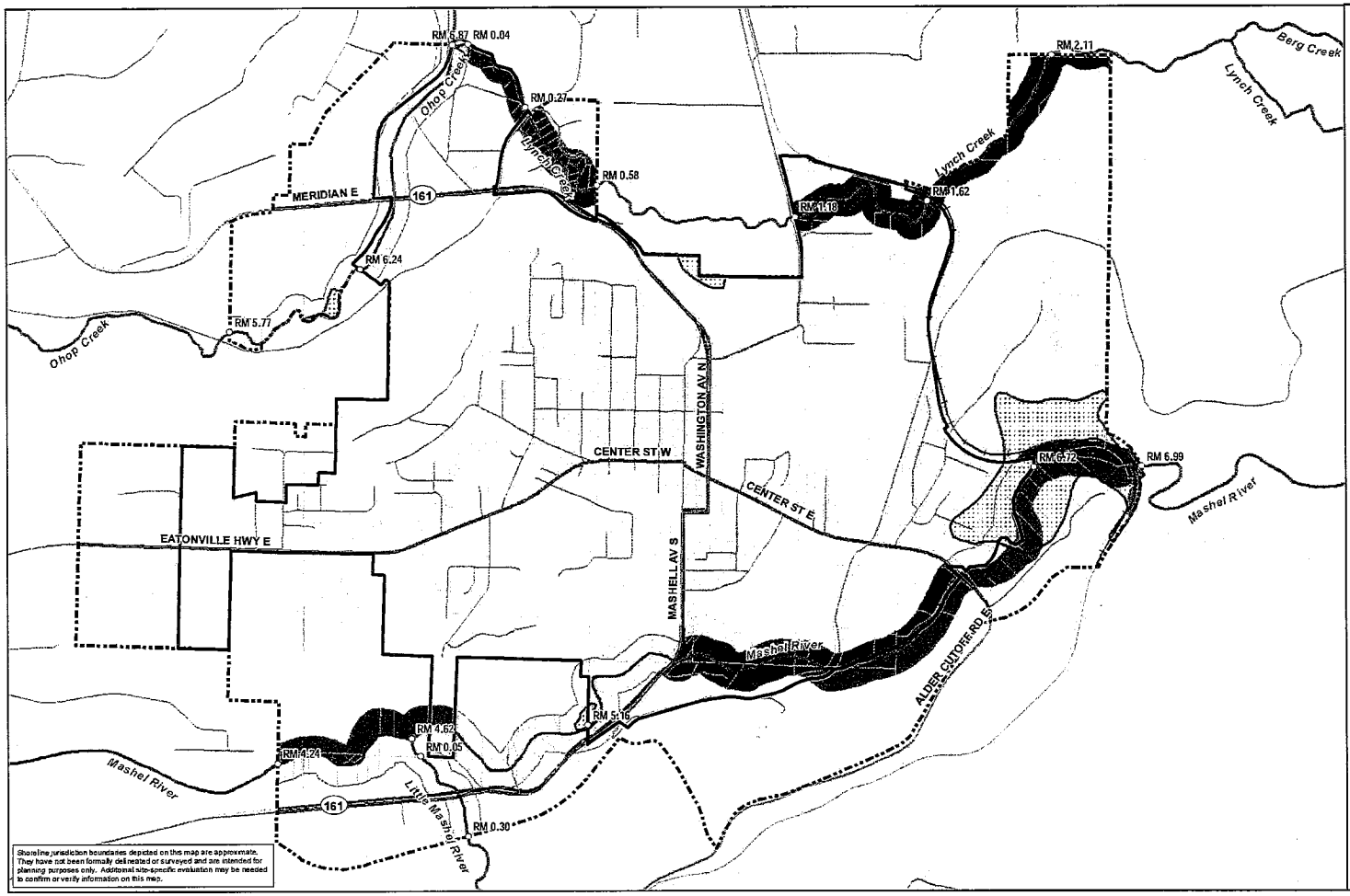
[2] Maximum allowed height must be consistent with 90.58.320 RCW

[3] Maximum height shall be determined by EMC 18.04 provided that the height allowance is consistent with 90.58.320 RCW

[4] The maximum site coverage in shorelines that are zoned AP shall be determined based on proposed use according to 18.04.185

3.5 Official Shoreline Map

The official Shoreline Environment Designations Map is included as Figure 1.



Legend

- Eatonville Town Limits
- UGA Boundary
- Major Roads
- Roads
- Railroads
- Streams
- Waterbodies
- Parcels

SED Designations

- N, Natural
- SR, Shoreline Residential
- UC, Urban Conservancy
- Associated Wetlands*

Note: Open water areas of Ohop Creek, Lynch Creek, Mashel River, and Little Mashel River are designated Aquatic.

* This map depicts the approximate location and extent of areas subject to the SMP. The actual extent of shoreline jurisdiction requires a site-specific evaluation to identify the location of the ordinary high water line and any associated wetlands. Wetland locations are approximate and based on existing town/county inventories; additional wetlands may be present that are not shown on the map and some of the areas shown as wetland may not meet the wetland criteria. This map makes no claim as to whether wetlands are associated with the shoreline or not. Definitive determination of presence and association of wetlands must be made on a project basis.

Town Of Eatonville

ESA

SHORELINE MASTER PROGRAM UPDATE
TOWN OF EATONVILLE

N

0 0.125 0.25 0.5
Miles

FIGURE 1
SHORELINE ENVIRONMENT DESIGNATIONS (SED)

SOURCE: Eatonville, 2009; ESA Adolfson, 2010; Pierce County, 2005, 2006, 2007.

G:\ENVIR IMPACTS\2009 Projects\208261_Eatonville SMP\05_Graphics_GIS_Modeling\GIS\working\SED Revised Nov 2011.mxd (ATP, 11/21/2011)

CHAPTER 4. GENERAL USE POLICIES AND REGULATIONS

The following shoreline policies and regulations apply to all Shoreline Environment Designations (SEDs)

4.1 Shoreline Use

4.1.1 Policies

1. Water-dependent and single-family residential uses that preserve shoreline ecological functions and processes are preferred shoreline uses. Secondary preference is given to water-related and water-enjoyment uses, and to those uses that enhance public access to the shoreline or include elements of shoreline restoration.

2. The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.

3. Uses and development which include restoration of shoreline areas that have been degraded as a result of past activities is highly encouraged.

4.1.2 Regulations

1. All uses in the shoreline shall comply with the Town's land use code (EMC Title 18) and this Program.

2. The shoreline use table (Table 1 in Chapter 3) defines those uses that are permitted outright and those uses that are only permitted as a conditional use. All unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-27-160(3).

3. Specific shoreline use regulations are located in Chapters 6 of this Program.

4.2 Archeological, Historical and Cultural Resources

4.2.1 Policies

1. The Town should work with tribal, federal, state, and local governments as appropriate to maintain an inventory of all known local historical, cultural and archeological sites. The location of historical, cultural and archeological sites should not be disclosed to the general public, consistent with applicable state and federal laws.

2. Development on sites having or adjacent to historical, cultural and archeological resources should avoid and minimize impacts to the resource. The Town should endeavor to involve tribal governments and the State Department of Archaeology and Historic Preservation in the review of development projects that could adversely affect such resources.

3. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long term protection of both historic values and shoreline ecological functions.

4. The Town should encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, local history, and environmental conservation.

4.2.2 Regulations

1. If any archeological artifacts are uncovered during excavations in the shoreline, work must stop and the Town of Eatonville, affected Indian Tribes, and the State Department of Archeology and Historic Preservation must be notified.

2. Permits issued in areas known or highly suspected to contain archeological artifacts and data shall have provisions providing for a site inspection and evaluation by an archeologist in coordination with affected Indian Tribes prior to initiation of disturbance and for monitoring of potentially disruptive activities. Cost for inspection and evaluation of the site will be the responsibility of the applicant. Significant archeological data or artifacts shall be recovered before work begins or resumes on a project.

4.3 Environmental Protection and Critical Areas

4.3.1 Policies

1. The Town should preserve, enhance, and/or protect critical areas in shoreline jurisdiction for their ecological functions and values, as well as their aesthetic, scenic, and educational qualities.

2. Development should provide a level of protection to critical areas within the shoreline that achieves no net loss of ecological functions.

3. This program should ensure that the Town's shoreline ecological functions are maintained or improved in the long term through effective implementation of the Town's Critical Areas Code.

4. All shoreline use and development should avoid and minimize adverse impacts to ensure no net loss of ecological functions and processes from current conditions.

5. Project-specific and cumulative impacts should be considered in assessing the potential for net loss of ecological functions and processes.

6. Proponents of development should require mitigation proportionate and related to the expected impacts of the proposed development.

4.3.2 Regulations

1. The Town of Eatonville Critical Areas Ordinance, as codified in EMC 15.16 (Ordinance No. 2005-10, approved July 25, 2005), are herein incorporated into this Program except

as noted. Exceptions to the applicability of the Town of Eatonville Critical Areas Code within the shoreline jurisdiction are as follows:

a. Activities that are exempt from the Critical Area Code per EMC 15.16.107 shall comply with this Program. Such activities may require a shoreline substantial development permit, shoreline variance or shoreline conditional use permit unless the Program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from shoreline substantial development permit requirements.

b. Procedural provisions, such as review per EMC 15.16.108 and enforcement per EMC 15.16.115 within shoreline jurisdiction shall be governed by this Program and the Critical Areas Code.

c. The variance and reasonable use provisions of EMC 15.16.114 and 18.09.040 shall not apply in shoreline jurisdiction. Projects that propose to vary from the standards of this program and EMC 15.16 shall require a shoreline variance according to the provisions of this Program and WAC 173-27.

d. Identification of wetlands and delineation of their boundaries shall be conducted in accordance with U.S. Army Corps of Engineers. 2010. Regional Supplement to the Corps of Engineers Wetland Delineation: Western Mountains, Valleys, and Coast Region (Version 2.0). ERDC/EL TR-10-3. Vicksburg, MS: U.S. Army Engineer Research and Development Center.

e. Wetland mitigation projects in the shoreline shall be designed with reference to: 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 – Part1: Agency Policies and Guidelines (Version 1) and Part 2: Developing Mitigation Plans (Version 1), Washington State Department of Ecology Publication # 06-06-011a and 06-06-011b.Nonconforming uses within the shoreline jurisdiction shall be subject to this Program instead of the nonconforming provisions of EMC 15.16.117.

f. The allowance of stormwater facilities in the outer 50 percent of the buffer of Category III or IV wetlands per EMC 15.16.124(F) does not apply in the shoreline. Within shoreline jurisdiction, stormwater management facilities and bioswales are allowed in the outer 25 percent of the buffer of Category III or IV wetlands without a shoreline variance.

g. The allowance of permeable trails in the outer 50 percent of a wetland buffer per EMC 16.15.113(B)(3) does not apply in the shoreline. Within shoreline jurisdiction, walkways, trails and wildlife viewing structures are allowed only in the outer 25 percent of wetland buffers and should be limited to pervious surfaces no more than five feet in width.

h. The maximum buffer reduction of 40 percent allowed as part of the buffer averaging provision of EMC 15.16.113(G)(3) shall not apply in shoreline jurisdiction.

The maximum buffer reduction allowed as part of an approved buffer averaging shall be 25 percent.

2. The Shorelines of the State in the Town of Eatonville including Ohop Creek, Lynch Creek, the Little Mashell River and the Mashell River are regulated as habitat conservation areas per EMC 15.16.171 through .175.

3. Per EMC 15.16.175 stream buffers are established for the Town's shorelines of the state as follows:

   a. **Lynch Creek and Ohop Creek Buffer Width.** A standard buffer of 150 feet shall be maintained in all shoreline environments designations consistent with EMC 15.16.175(K).

   b. **Mashell River and Little Mashell River.** A standard buffer of 200 feet shall be maintained in all shoreline environments designations consistent with EMC 15.16.175(K).

4. Provisions of the Critical Areas Code that are not consistent with the Shoreline Management Act Chapter 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in the shoreline jurisdiction.

5. A proponent of any new shoreline use or development shall mitigate adverse environmental impacts and/or impacts to shoreline ecological functions whether or not the use/development requires a shoreline substantial development permit or is exempt from a shoreline permit consistent with WAC 173-26-201(2)(e).

6. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

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

   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

   c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

   d. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

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

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

8. If the provisions of the Critical Areas Code in EMC 15.16 and any part of this Program conflict, the provisions of this Program shall prevail.

4.4 Flood Hazard Reduction

4.4.1 Policies

1. Flood protection should be managed in accordance with the Town's floodplains regulations, Stormwater Management and Erosion Control regulations, and the National Flood Insurance Program.

2. The Town should participate in regional approaches to flood management issues within WRIA 11, coordinating with the Federal Emergency Management Agency (FEMA), the State of Washington, Pierce County, and other entities involved in reducing flood hazards.

3. Consistent with the Town's floodplain regulations, EMC 15.16.151 through 15.16.156, the Town should discourage development in floodplains and channel migration zones associated with the Town's shorelines that would individually or cumulatively result in an increased risk of flood damage, channel erosion hazards, or further limit channel migration.

4. Non-structural flood hazard reduction measures should be given preference over structural measures. Non-structural measures include setbacks, land use controls prohibiting or limiting development in historically flooded area, removal or relocation of structures in flood-prone areas, or bioengineering measures. Structural flood hazard reduction measures should be avoided whenever possible, and when necessary should be conducted in a manner that assures no net loss of ecological functions and ecosystem-wide processes.

5. Where feasible and without creating risk to existing development, the Town should encourage the removal of hard bank armoring to re-establish connectivity to the former floodplain and associated wetlands for flood water storage, habitat, and to allow for natural channel migration.

6. The Town should not allow new uses, the creation of new lots, or the construction of new developments where the development or use would further require structural flood hazard reduction measures in the reasonably foreseeable future.

4.4.2 Regulations

1. All development in the shoreline shall comply with the Town's floodplain provisions of the critical areas regulations (EMC 16.16.151 – 156), Stormwater Management and Erosion Control (EMC 16.54), and the National Flood Insurance Program.

2. Development in FEMA designated floodplains and floodways, and/or riparian buffers shall be required to demonstrate no adverse impact on habitat for fish species listed as threatened or endangered under the federal Endangered Species Act and no net loss of shoreline ecological functions.

3. New development or uses in the shoreline jurisdiction shall not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone of the floodway over the lifetime of the development or use.

4. Allow new structural flood hazard reduction measures in the shoreline jurisdiction only when it can be demonstrated by scientific and engineering analysis that they are necessary to protect existing development, that non-structural measures are not feasible, and that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss of shoreline ecological functions.

5. Fills are prohibited in the floodplains except where the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property; and flood storage capacity will not be reduced.

4.5 Public Access

4.5.1 Policies

1. Expand the amount and diversity of shoreline public access opportunities consistent with the character and ecological functions of the shoreline, private property rights and public safety. Specifically, expand a network of walking and biking trails along the Mashell River.

2. Public access improvements and amenities (such as viewpoints, trails, etc.) should be designed to provide for public safety, to respect individual privacy, and to avoid or minimize visual impacts from neighboring properties.

3. Provide public access as part of any development project by a public entity.

4. The Town should require commercial, multi-family, and mixed-use residential developments to provide public physical or visual access to the shoreline as a condition of approval for development within the Town's shoreline. Required public access should be commensurate with the impacts of such development and the corresponding benefit to the public, and consistent with constitutional limitations.

5. Acquire and develop property to provide public access to the water's edge at regular intervals along the Town's shorelines and at the ends of public rights-of-way abutting the shoreline.

6. New development should not substantially interfere with existing public visual and/or physical access to the Town's shorelines.

7. In locating new public access facilities, the rights of private property owners should be acknowledged and protected.

4.5.2 Regulations

1. Shoreline development shall not block or interfere with normal public use of, or public access to publicly owned shorelines and water bodies.

2. Public access provided by shoreline street ends, public utilities and rights-of way shall not be diminished pursuant to RCW 35.79.035, Limitations on Vacations of Streets Abutting Bodies of Water; and RCW 36.87.130, Vacation of Roads Abutting Bodies of Water Prohibited unless for Public Purposes.

3. Public access shall be located and designed to respect private property rights, be compatible with the natural shoreline character, ensure no net loss of shoreline ecological functions, and ensure public safety.

4. The Town shall require visual or physical public access for any of the following uses/developments:

    a. Where use/development occurs on public land or is undertaken by any public entity, including public parks and public utility districts; or

    b. Where land is proposed for subdivision into four (4) or more parcels or proposed for development of a non-water-dependent commercial use, multifamily use or mixed use development, provided that the public access is compatible with the proposed use and consistent with this Program; or

    c. Where use/development will interfere with the public use of the lands or waters subject to the Act.

5. The Town shall not require public access if the proposed use or development meets one or more of the following conditions:

    a. The access would create unavoidable health or safety hazards to the public which cannot be prevented by practical means; or

    b. The access would unduly infringe on private property rights or compromise the safety or security of the adjoining properties; or

    c. The cost of providing the access or easement is unreasonably disproportionate to the long-term cost of the proposed development; or

    d. The access would create ecological impacts that cannot be mitigated; or

    e. The access would create adverse and unavoidable conflicts with the proposed or adjoining uses that cannot be mitigated; or

f. The proposed development is a single-family residence that is not part of a development planned for more than four parcels.

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

7. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, or other area serving as a means of view and/or physical approach to shorelines of the state.

8. Public access locations shall be clearly marked with visible signage.

9. Public access trails and structures shall be allowed within shoreline buffers subject to the requirements of this Program and the Critical Area Code (EMC 15.16), provided that such trails and structures are necessary to provide physical and/or visual access to the shoreline.

10. Public access shall be located adjacent to other public areas, accesses and connecting trails, and connected to the nearest public street, where ever possible.

4.6 Shoreline Vegetation Conservation

4.6.1 Policies

1. All new shoreline development and/or uses should retain existing native shoreline buffer vegetation located, with the overall purpose of protecting and maintaining functions and processes. Important functions of shoreline buffer vegetation include: stabilizing banks and attenuating erosion, providing shade to maintain cool temperatures, removing sediments and excessive nutrients, providing habitat for terrestrial and aquatic wildlife, and providing woody debris and other organic material inputs.

2. Vegetation conservation and management in shoreline areas should include removal of non-native invasive plant species and noxious weeds as needed to facilitate establishment of stable native plant communities.

3. Woody debris should be left in stream corridors to enhance wildlife habitat and shoreline ecological functions, except where it threatens personal safety or public infrastructure such as bridge pilings, roads or flood control structures.

4. Native shoreline vegetation should be integrated with bioengineering to stabilize streambanks and lakeshores and minimize erosion.

5. Vegetation clearing should be limited to the minimum necessary to accommodate shoreline uses/development.

4.6.2 Regulations

1. To conserve and maintain shoreline vegetation, shoreline use and development shall comply with the development standards in Chapter 3, Table 2 as well as the buffer and habitat conservation areas standards established in EMC 15.16.175 as adopted by reference in Section 4.3.

2. Shoreline uses and developments shall comply with the development standards in Chapter 3, Table 2 as well as the Town's landscaping regulations in EMC 18.07; and Stormwater Management and Erosion Control regulations in EMC 16.54.

3. Proponents of all new shoreline uses or developments shall maintain existing native shoreline vegetation to the maximum extent practicable.

4. Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline uses and developments and shall comply with the standards established in Table 1 of Chapter 3 as well as the use-specific regulations contained in this Program.

5. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section.

6. A shoreline permit or written statement of exemption shall not mandate, nor guarantee removal of vegetation for the purpose of providing unobstructed horizontal or lateral visibility of the water or any specific feature near or far.

7. Vegetation conservation standards shall not limit or restrict the removal of hazard tree or non-native noxious weeds provided removal is consistent with EMC 16.54, Stormwater Management and Erosion Control and 15.16, Critical Areas Code.

4.7 Water Quality

4.7.1 Policies

1. Stormwater should be managed consistent with EMC 16.54, the Town's stormwater management and erosion control regulations and the Comprehensive Plan.

2. Promote the use of low impact development techniques through incentives, permit requirements, and adopted Town plans and policies.

3. In shoreline areas presently serviced with septic systems, new development or re-developing properties should be required to connect to the Town's sanitary sewer lines where sewer service is available.

4. The Town should expand sewer service within the town limits to areas presently served by septic systems.

5. Effective erosion/sedimentation controls for construction in shoreline areas should be required.

6. The Town should discourage the use of fertilizers and herbicides adjacent to shorelines.

4.7.2 Regulations

1. All new development or re-developing properties shall be required to connect to the Town's sanitary sewer lines where sewer service is available.

2. Shoreline use and development shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality in accordance with the Town's stormwater management and erosion control regulations (EMC 18.54) as well as the Town's critical aquifer recharge area provisions of the critical areas code (EMC 15.16.141 – 15.16.147).

3. All materials that may come in contact with water shall be composed of non-toxic materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals.

4. Consistent with EMC 15.16.175(D), the use of fertilizers or pesticides in habitat conservation areas and their buffers shall be prohibited.

4.8 Restoration

4.8.1 Policies

1. The Town should encourage and facilitate cooperative restoration and enhancement programs between local, state and federal public agencies, tribes, non-profit organizations, and landowners.

2. The Town should implement approved restoration plans to facilitate the restoration of impaired ecological functions.

3. The Town should establish a public outreach and education program for property owners adjacent to the shoreline to promote shoreline-friendly practices.

4. Where feasible, the Town should enhance or restore areas that are biologically and/or aesthetically degraded while maintaining appropriate use of the shoreline.

5. The Town should encourage projects that restore/rehabilitate/enhance shoreline resources using strategies such as a simplified permit process, reduced or waiver of permit fees, provision of mitigation credit, public outreach/assistance, flexible development standards, and Town participation in a pilot project.

4.8.2 Regulations

1. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and used in a manner that observes the critical area regulations of EMC 15.16 and assures compatibility with other shoreline uses.

2. Ecological restoration projects shall be carried out in accordance with a Town-, County-, Tribal- or resource agency-approved restoration plan and in accordance with the policies and regulations of this Program.

4.9 Views and Aesthetic

4.9.1 Polices

1. Shoreline uses and development should be designed and maintained to minimize obstructions of the public's views of the water.

2. Development in shoreline areas should consider the scale, arrangement and modulation of site buildings and elements to achieve a balance of open space and development.

3. Residential subdivisions, multi-family residential and commercial developments should provide shoreline view points for public use.

4.9.2 Regulations

1. New uses and developments shall conform to the dimensional standards of EMC 18.04 and this Program to maintain shoreline views.

2. Provision of visual access to shorelines shall be required consistent with Section 4.5 of this Program.

CHAPTER 5. SHORELINE MODIFICATION

5.1 Shoreline Stabilization

5.1.1 Policies

1. New permanent shoreline stabilization structures should be prohibited except in cases where an existing structure is in imminent danger from landslide or erosion.

2. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Proposed subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur as demonstrated by a geotechnical analysis. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

3. Where allowed, stabilization measures should use non-structural or bio-engineered shoreline stabilization techniques.

4. Proposals to repair existing shoreline stabilization structures should include measures to enhance existing conditions for fish and wildlife, shoreline vegetation, water quality, and sediment transport.

5. The Town should expedite approval of development projects that remove or soften bank armoring and revegetate the shoreline.

6. All shoreline uses and developments should be located and designed to prevent the need for shoreline protection structures (bulkheads, riprap, etc.). The Town should not allow new uses, the creation of new lots or the construction of new development where it would be reasonably foreseeable that the development or use would require structural bank stabilization.

5.1.2 Regulations

1. Bioengineered shoreline stabilization is the preferred method for stabilizing shorelines and shall be permitted.

2. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land shall be regulated to assure that lots created will not require shoreline stabilization in order for reasonable development to occur.

3. New, expanded, or replaced shoreline stabilization structures shall be prohibited except where there is a demonstrated threat to an existing legally established primary

structure from landslide or erosion caused by waves or currents and then only as a conditional use.

4. The need for new, expanded or replaced structural shoreline stabilization shall be demonstrated by a geotechnical analysis, which includes, at a minimum, documentation that the structure is in danger from shoreline erosion caused by currents or waves. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge.

5. New, expanded or replaced shoreline stabilization structures shall meet the following criteria:

    a. Bioengineering or soft shore armoring methods, consistent with EMC 15.16.175(J), shall be used unless it can be demonstrated to be infeasible;

    b. The impacts can be mitigated in accordance with the mitigation sequencing prescribed by the Program such that there is no net loss of ecological functions or processes;

    c. The size of shoreline stabilization structure shall be limited to the minimum necessary to protect the primary structure/use. Shoreline stabilization and flood control structures shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist and constructed according to applicable state and federal laws;

    d. The shoreline stabilization structure shall be constructed and maintained in a manner that does not degrade the quality of affected waters or adversely impact natural sediment transport; and

    e. The new, expanded or replaced structure does not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety concerns or environmental concerns.

6. Normal maintenance and repair of existing shoreline stabilization of flood control structures, such as rip-rap, revetments, levees or berms to a state comparable to their original condition, shall be allowed as long as the existing structure does not increase in size or extend waterward of the original structure.

7. Replacement of 100 percent of the lineal feet of an existing shoreline stabilization structure within any five (5) year period shall be regulated as a "new, expanded, or replaced" structure.

8. Geotechnical reports pursuant to this section that address the need to prevent potential damage to an existing primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring or structural solutions should not be authorized except when a report confirms that there is a significant possibility that a primary structure will be damaged within three years as a

result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need for armoring is so great that it would foreclose on the opportunity to utilize measures that avoid or minimize impacts to ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three (3) years, that report may still be used to justify more immediate authorization to protect against erosion using soft shore stabilization measures.

9. In conjunction with any stabilization project, shoreline vegetation shall be protected and restored along or near shorelines to protect and restore the ecological functions and ecosystem-wide processes and to protect human safety and property.

10. Shoreline stabilization may be allowed for environmental restoration or if the Town determines that there will be a net increase in desired shoreline ecological functions.

5.2 Fill, Excavation, Ditching, Clear and Grade

5.2.1 Policies

1. Fill, excavation, ditching, clearing and grading in shoreline jurisdiction should be allowed only in association with a permitted use and where allowed should be the minimum necessary to accommodate the proposed use.

2. Shoreline fill, excavation, ditching, clearing and grading should be designed and located so there will be no significant degradation of water quality, no alteration of surface water drainage, flood water storage, or conveyance capacity and no further limitation to channel migration which would pose a hazard to adjacent property or natural resources.

3. The perimeter of fill, excavation, ditching, clearing and grading activities should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill and excavation activities and over time.

5.2.2 Regulations

1. All filling, excavation, ditching, clearing and grading activities in the shoreline shall comply with the provisions of EMC 16.53 (Best Management Practices for Construction and Site Development) and 16.54 (Stormwater Management and Erosion Control) and this Program.

2. Fill, excavation, ditching, clearing and grading is allowed in the shoreline only in association with a permitted use. Where allowed, the activity shall be the minimum necessary to accommodate the development.

3. Development that involves fill, excavation, ditching, clearing and grading within the shoreline jurisdiction shall obtain a Shoreline Substantial Development permit or Shoreline Conditional Use Permit (as specified in Table 1 Chapter 3).

4. Fill shall be permitted only where it is demonstrated that the proposed action will not:

a. Result in significant ecological damage to water quality, fish, and/or wildlife habitat; or

b. Adversely alter natural drainage and circulation patterns, currents, creek/river flows or significantly reduce flood water capacities or inhibit channel migration.

5. Filling, and/or excavation waterward of the OHWM may be allowed when necessary to support the following:

   a. Publicly sponsored ecological restoration or enhancement projects;

   b. Town-approved restoration and mitigation projects that involve removal of shoreline armoring or shoreline vegetation enhancement;

   c. Bio-engineered shoreline stabilization projects, including bio-engineered shoreline stabilization associated with private residential developments;

   d. Publicly sponsored non-restoration projects that provide public access or improve access to the shoreline for a substantial number of people;

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

6. Before the Town can permit any filling, excavation, clearing or grading activities, the applicant must demonstrate all of the following:

   a. Alternatives to filling, excavation, clearing and grading are infeasible;

   b. Normal surface water movement and drainage patterns shall be maintained to the maximum extent feasible;

   c. Fill materials shall not adversely affect water quality or aquatic life;

   d. Fill shall allow surface water penetration into the ground where such conditions existed prior to the fill;

   e. The filling, excavation, clearing or grading shall be timed to minimize damage to shoreline ecological functions and processes and aquatic life; and

   f. Fill within the one hundred-year (100-year) floodplain shall not reduce the floodplain water storage capacity, inhibit channel migration, or in any way increase flood hazard or endanger public safety.

7. Fill, excavation, ditching, clearing or grading shall not be located where structural shore stabilization will be required to maintain materials placed or removed. Disturbed areas shall be immediately stabilized and re-vegetated, as applicable.

8. A temporary erosion and sediment control (TESC) plan shall be provided for all proposed filling, excavation, clearing and grading activities.

9. Unavoidable impacts of filling, excavation, clearing and/or grading shall be mitigated as required by this Program and WAC 173-26-201(2).

5.3 Dredging and Dredge Material Disposal

5.3.1 Policies

1. Dredging should be prohibited except when associated with an approved and adopted watershed management plan, surface water management plan, restoration plan, and/or flood hazard reduction plan.

2. Dredging of bottom material waterward of the ordinary high water mark for the primary purpose of obtaining fill or construction material should be prohibited, except when the material is necessary for ecological restoration.

3. Minor dredging to facilitate ecological restoration or enhancement, including restoration of channel capacity for flood flows, should be allowed provided ecological impacts are minimized and the proposed activity is consistent with this Program.

4. Dredge material disposal is not allowed in water bodies, on shorelands, or on wetlands, except as part of an adopted restoration or habitat improvement project.

5.3.2 Regulations

1. Dredging waterward of the OHWM shall only be allowed as a conditional use and when necessary to support the following:

   a. A publicly sponsored ecological restoration or enhancement project that improves shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat;

   b. A Town-approved restoration and mitigation project that involves removal of structural shoreline armoring and/or shoreline vegetation enhancement; or

   c. A bio-engineered shoreline stabilization project, including bio-engineered shoreline stabilization associated with private residential developments or public project.

2. Dredging may be permitted as a conditional use for removal of gravel, sediment, or buried wood debris for flood management purposes consistent with an adopted flood hazard reduction plan and only after a biological and geomorphological study demonstrates that extraction has a long term benefit to flood hazard reduction, does not result in a long-term degradation of fish habitat, and is part of a comprehensive flood management solution.

3. Dredge spoil disposal in water bodies, shorelands, or wetlands shall be prohibited, except when associated with a MTCA or CERCLA habitat restoration or as part of an approved shoreline restoration or habitat improvement project.

4. Proposals for dredging and dredged material disposal shall include all feasible mitigation measures to protect freshwater habitats and to minimize adverse environmental impacts (e.g., turbidity, nutrient releases, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities).

5.4 In-stream Structures

5.4.1 Policies

1. In-stream structures should only be allowed for the purpose of environmental restoration.

2. In-stream structures should provide for the protection and preservation of ecological functions and processes such as fish habitat.

3. Planning and design of in-stream structures should be consistent with and incorporate elements from an adopted watershed management plan, surface water management plan or restoration plan.

4. Existing in-stream structures which are failing, unnecessary, harmful, or ineffective should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.

5. Natural in-stream features such as large woody debris, snags, uprooted trees or stumps should be left in place unless it can be demonstrated that they are causing bank erosion, higher flood stages or safety hazards.

5.4.2 Regulations

1. In-stream structures shall only be allowed when associated with an adopted watershed management plan, surface water management plan or restoration plan.

2. In-stream structures shall be designed by a licensed professional engineer with experience in analyzing hydraulic information and systems.

3. In-stream structures shall be located and designed to minimize the need for structural shoreline stabilization. All debris, overburden and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body.

4. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, safety

hazards, or higher flood stages. Removal shall be done in coordination with Washington Department of Fish and Wildlife.

5. In-stream structures shall not adversely affect upstream or downstream migration of anadromous fish.

CHAPTER 6. USE SPECIFIC SHORELINE POLICIES AND REGULATIONS

6.1 Prohibited Uses

The following uses are prohibited in all shoreline environments:

1. Industrial uses
2. Mining

6.2 Agriculture

6.2.1 Policies

1. The Town should allow agricultural uses where permitted in the underlying zoning and developed consistent with the provisions of EMC Titles 18 and 15 and this Program.
2. Ensure no net loss of ecological functions by encouraging the use of best management practices for riparian vegetation conservation, erosion control, water quality protections, and compatibility with shoreline uses.

6.2.2 Regulations

1. Existing legally established agricultural operations are permitted to continue.
2. New agriculture operations and new accessory structures shall be subject to the Town's development regulations in EMC 18.04 and critical areas regulations in 15.16.

6.3 Commercial

6.3.1 Policies

1. Commercial development and use should be prohibited in the Natural Environment.
2. The Town should give first preference to water-dependent commercial uses over non-water-dependent commercial uses; and give second preference to water-related and water-enjoyment commercial.
3. Commercial development should be designed and located to prevent net loss of shoreline ecological functions and should not have adverse impacts on other shoreline uses, public access or recreation.
4. Commercial development should be required to provide the public with physical or visual access to the shoreline wherever possible, unless such access creates a risk to public safety, interferes with permitted uses or would result in adverse ecological impacts.

5. Non-water-oriented commercial uses should be allowed when they benefit the public by providing public access and restoring shoreline ecology. This policy does not apply to sites which are physically separated from the shoreline by other properties or public rights-of-way.

6.3.2 Regulations

1. Commercial uses and developments shall achieve no net loss of ecological functions.

2. Commercial uses and developments are prohibited in the Natural Environment.

3. Water-oriented commercial uses and developments shall be allowed in the shoreline jurisdiction when allowed by the underlying zoning (EMC 18.04) and when developed consistent with the standards in Chapter 3, Table 2 and all other provisions off this Program.

4. New or expanded non-water-oriented commercial uses shall be allowed in the shoreline when allowed by the underlying zoning (EMC 18.04) and when:

   a. The site is physically separated from the shoreline by another property or public right of way; or

   b. The use is part of a mixed-use project that includes an associated water-oriented commercial use; or

   c. The use includes public access and ecological restoration such as removing shoreline armoring and enhancing shoreline vegetation. The Town shall determine the appropriate type and extent of public access and ecological restoration required based on the type of development and the existing site conditions.

5. Commercial development, including all accessory structures shall be prohibited in, on, or over water or within floodways.

6.4 Recreation

6.4.1 Policies

1. The Town should provide diverse water-dependent and water-related recreation opportunities that are convenient and adequate for the community and that preserve shoreline resources and do not result in a net loss of ecological functions.

2. The Town should plan for shoreline recreation facilities to serve projected growth and level of service standards, in accordance with the Comprehensive Plan.

3. Recreational uses in shoreline areas should be located where the uses would not result in adverse effects on shoreline functions and processes, and/or neighboring uses.

4. The Town should encourage cooperation among public agencies, Tribes, non-profit groups and private landowners and developers to increase and diversify recreational opportunities.

5. Public recreational development should be located where existing infrastructure (roads and utilities) is adequate, commensurate with the number and concentration of anticipated users.

6.4.2 Regulations

1. Public water-oriented recreational development is a preferred shoreline use and shall be allowed when consistent with underlying zoning pursuant to EMC 18.04, this Program, and the Act.

2. Water-oriented public access and recreational uses, including permeable pedestrian or bicycle trails and wildlife view structures may be allowed in the shoreline buffer provided they comply with all provisions of this program and will not result in a loss of ecological functions.

3. Public recreational developments shall provide for non-motorized public access to the shoreline (e.g., pedestrian and/or bicycle paths), unless such access is infeasible due to public health and safety considerations.

4. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of picnic areas, selected views or other permitted structures or facilities. Any removal of vegetation shall comply with the regulations for vegetation conservation and all other provisions of this program.

5. Signs indicating the publics' right of access to shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access and entrances.

6. All temporary and/or permanent impacts to the shoreline buffer required for development of recreational facilities shall meet standards of mitigation, as specified by this Program so as to result in no net loss of ecological functions.

6.5 Residential

6.5.1 Policies

1. Single-family residences and their appurtenant structures are a preferred shoreline use when developed in a way that controls pollution and prevents damage to the shoreline environment and complies with the provisions of this Program.

2. Residential development should be designed to preserve existing shoreline vegetation, control erosion, protect water quality using best management practices, and to utilize low impact development techniques where appropriate.

3. Accessory structures such as accessory dwelling units and other structures should be located and designed to minimize impervious surface and be visually and physically compatible with adjacent shoreline features.

4. New residential development should provide adequate building setbacks and natural vegetated buffers to protect and restore ecological functions and processes, to preserve views, and to minimize use conflicts.

5. The Town should encourage voluntary enhancement and restoration of high-functioning vegetated buffers and natural or semi-natural shorelines.

6. Residential development should at a minimum achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for developments that do not require a Shoreline Substantial Development Permit.

6.5.2 Regulations

1. Residential development shall achieve no net loss of ecological function.

2. All residential use and development shall comply with the standards included in Chapter 3, Table 2.

3. Single-family residential use is a preferred shoreline use and shall be permitted in the shoreline when allowed by the underlying zoning and development standards of EMC 18.04 and developed consistent with this Program and the Act.

4. Multi-family residential development and mixed-use development with a residential component shall be allowed in the shoreline where the underlying zoning designation (EMC 18.04) allows such use and the development is consistent with this Program.

5. New residential development is prohibited in the Natural Environment.

6. Multi-family residential development in the Urban Conservancy environment shall be located a minimum distance of 200 feet from the OHWM.

7. New residential development, including all accessory structures shall be prohibited in, on, or over water or within floodways.

8. Residential development and appurtenances shall be located sufficiently landward of the ordinary high water mark to preclude the need for new structural shoreline stabilization and/or flood protection or structures that limit channel migration for the useful life of the structure.

9. Plats and subdivisions shall be designed, configured and developed in a manner that assures no net loss of ecological functions will result at full build-out of all lots.

10. Subdivision of land for residential lots shall not be approved when structural flood protection or shoreline stabilization measures will be necessary to protect new

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

11. As mandated by the RCW 90.58.320, no shoreline permit may be issued for any new or expanded building or structure of more than thirty five (35) feet above average grade level on shorelines, except where overriding considerations of the public interest will be served.

12. All residential development proposals shall be accompanied by a plan indicating methods for erosion control during and following construction in accordance with EMC 16.54, Stormwater Management and Erosion Control.

13. All residential development shall comply with the sewage disposal and water supply requirements under EMC 13.04 and 13.

14. Structures or development that are appurtenant to a single-family residence, including a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading not to exceed two hundred fifty cubic yards and which does not place fill in any wetland or waterward of the OHWM, shall be exempt from a shoreline substantial development permit.

6.6 Transportation and Parking

6.6.1 Policies

1. Transportation facilities, including new facilities and repair and improvement of existing facilities should be located, designed, constructed and maintained to have minimum impacts on shoreline resources and ensure no net loss of shoreline ecological functions.

2. New transportation facilities should be located outside of shoreline jurisdiction unless there is no reasonably feasible alternative alignment or location or they are required to access a permitted use and then, they should be the minimum width possible.

3. New transportation facilities should be located and designed to minimize the need for shoreline protection measures, modifications to natural drainage systems, and crossing waterways. Stormwater impacts should be managed consistent with EMC chapter 16.54, Stormwater Management and Erosion Control.

4. Shoreline restoration and public access should be considered with planning and funding of transportation projects.

5. Expansion or major improvements to existing roads within shoreline jurisdiction should improve water quality by providing stormwater treatment of existing, untreated road runoff to an extent proportional to the proposed road improvement.

6. New creek/river crossings should be minimized to the extent feasible.

7. Bikeways and trails for non-motorized use should be provided along roads in shoreline jurisdiction to the extent feasible, and should be considered when rights-of-way are being vacated or abandoned.

8. The Town should encourage joint use transportation corridors by consolidating transportation and utility facilities in shared rights-of-way when they must cross shoreline areas.

9. Encourage creation of trail systems adjacent to new roads and railroads where feasible and safe.

10. Parking is not a preferred shoreline use and should be allowed only to support a use authorized under this Program.

11. Parking facilities should be located outside of shoreline jurisdiction or as far landward from the ordinary high water mark as feasible. When located within shoreline jurisdiction, the location and design of parking facilities should:

    a. Minimize visual and environmental impacts to adjacent shoreline and critical areas.

    b. Provide for pedestrian access through the facility to the shoreline; and

    c. Facilitate public access to and enjoyment of the shoreline.

12. Parking, storage, loading and service areas and facilities serving commercial uses should minimize their visual impact on the shorelines, utilize low impact development techniques and be placed outside of the shoreline, wherever possible.

6.6.2 Regulations

1. Transportation regulations shall apply to any use or development where transportation infrastructure is or is proposed to be a primary land use, including new or expanded roadways and parking facilities. Transportation regulations shall not apply to private driveways.

2. New transportation facilities may be located within shoreline jurisdiction only when alternative locations are not feasible, and if permitted, they should be the minimum width needed for access.

3. Transportation facilities shall cross shoreline jurisdiction by the most direct route feasible, unless such a route would result in greater impacts on wetlands and fish and wildlife habitat conservation areas than a less direct route.

4. Transportation uses and development shall be carried out in a manner that maintains or improves State water quality standards for receiving waters through implementation of state and Town stormwater regulations.

5. New transportation facilities and improvements to existing transportation facilities, not including public trails, shall be located outside of the critical areas buffer (as prescribe in

EMC 15.16), unless there is no feasible alternative. Any required impacts within the shoreline shall meet the standards of mitigation, as specified in section 4.2.3(3) of this Program.

6. Bridges are the preferred method for crossing creeks and rivers. New roads shall be located to minimize the need for routing surface waters into and through culverts.

7. New transportation facilities shall be located and designed to preclude the need for shoreline stabilization and structural flood protection.

8. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours and minimize width to the maximum extent feasible.

9. Parking as a stand alone use shall not be allowed in any shoreline environment.

10. Parking or loading facilities necessary to support an authorized shoreline use may be allowed in shoreline areas only when:

    a. They are allowed by the underlying zoning and developed consistent with the Town's critical areas regulations (EMC 15.16) as adopted in section 4.3.2;

    b. The applicant can demonstrate that no other alternative location is feasible to serve the primary use of the site;

    c. The parking or loading facility is needed to accommodate public access pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.

    d. Shoreline stabilization measures will not be necessary to protect the facility; and

    e. The facility will not result in a net loss of ecological functions.

6.7 Utilities

6.7.1 Policies

1. The design and location of utility facilities should provide for no net loss of shoreline ecological functions.

2. New utility production and processing facilities, such as power plants and sewage treatment plants or parts of such facilities that are non-water oriented should not be located in shoreline areas unless there is no feasible alternative location.

3. Utility transmission facilities should be located outside of shoreline areas, to the maximum extent feasible.

4. Utility lines and facilities, when they must be placed in a shoreline area, should not obstruct or destroy scenic views. Whenever feasible, these facilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.

5. Location of pipelines and cables, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions, should not be allowed unless there is no feasible alternative.

6. Utility installation or maintenance projects in shorelines should restore areas to pre-project configuration, replant with native species and provide maintenance care until the newly planted vegetation is established.

7. Utility facilities should be located within existing transportation rights-of-way in shoreline areas whenever feasible.

8. Major utility facilities should be located and designed to be compatible with other uses of the water and shorelines and in a manner that preserves the natural landscape and shoreline ecology.

6.7.2 Regulations

1. New utility facilities shall be located outside of shoreline jurisdiction whenever feasible. When located within shoreline jurisdiction, utility facilities shall result in no net loss of shoreline ecological functions.

2. Where major generating facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

3. Utility facilities shall be designed and located as follows:

   a. Above ground generating facilities, switching complexes, pumping stations, treatment plants, storage tanks, and substations shall be located at least 200 feet from the ordinary high water mark unless the developer can show the need for a shoreline location;

   b. Utility transmission facilities shall be located in existing rights-of-way whenever possible and cross shoreline jurisdiction by the most direct route feasible, unless an alternative route would result in less impact on shoreline ecological functions;

   c. Utility facilities shall not parallel a water body unless located in an existing improved transportation or utility corridor, and provided that underground facilities do not adversely impact hyporheic exchange;

   d. Underground utility lines shall be completely buried under the river bed in all river or stream crossings, where possible.

4. Upon completion of utility installation/maintenance projects on shorelines, banks shall be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

6.8 Unclassified Uses

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Section 8.5.6 of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this program and RCW 90.58.020.

CHAPTER 7. ADMINISTRATIVE PROVISIONS

7.1 General Compliance

1. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with 90.58 RCW, the Shoreline Management Act, the EMC and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

2. Shoreline substantial development permits, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable requirements of EMC 18.09 and 18.09A.

3. The Town shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to the adopted Program.

4. A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

5. A development or use that is listed as a conditional use pursuant to this Program, or is an unclassified use, must obtain a shoreline conditional use permit even if the development or use does not require a shoreline substantial development permit.

6. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or Town laws or regulations.

7. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Planning Director, documenting compliance with bulk and dimensional policies and regulations of this Program. The Planning Director may attach conditions to the approval as necessary to assure consistency with RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

8. The Town shall not issue a permit for any new or expanded building or structure that exceeds a height of thirty five (35) feet above average grade level that will obstruct the view of a substantial number of residences except with a shoreline variance.

9. The Planning Director is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated there under pursuant to the enforcement and penalty provisions of WAC 173-27.

7.2 Shoreline Permits and Exemptions

7.2.1 Shoreline Substantial Development Permit Required

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

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

3. The Planning Director is authorized to grant a shoreline substantial development permit when all of the criteria enumerated in WAC 173-27-150 are met.

7.2.2 Exemptions from a Substantial Development Permit

1. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040 (List of Exemptions), and SMP Section 8.3.3 shall not require a substantial development permit but shall conform to the policies and regulations of this Program.

2. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and SMP Section 7.5.3, then a substantial development permit is required for the entire proposed development project.

3. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

4. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

7.2.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 7.5.4:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen dollars ($5,718.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average

consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

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

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

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full

compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Planning Director to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

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

6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the Town and state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. A normal appurtenance includes a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards (250 cy) and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

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

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

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

10. Any project with a certification from the governor pursuant to chapter 80.50 RCW (certification from EFSEC);

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

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

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

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

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 pre-existing conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550 (Oil& Natural Gas Exploration in Marine Waters);

12. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

13. Watershed restoration projects as defined in Chapter 8. The Town shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant.

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

a. The project has been approved in writing by the department of fish and wildlife;

b. The project has received hydraulic project approval by the state department of fish and wildlife pursuant to chapter 77.55 RCW; and

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

7.3 Statement of Exemption

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Planning Director for such an exemption in the manner prescribed by the Planning Director.

2. The Planning Director is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in SMP Section 7.3.3. The

statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Planning Director's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and the Department. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

7.4 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020 and this program.

2. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. When a shoreline variance is requested, the planning commission acting as the board of adjustments shall have the authority to grant a variance consistent with the provisions of EMC 18.09.04. However, shoreline variances must have approval from the state. The State Department of Ecology shall be the final approval authority under WAC 173-27-200.

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

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

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

    c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

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

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

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

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

6. A variance from Town development code requirements shall not be construed to mean a shoreline variance from shoreline master program use regulations and vice versa.

7. Shoreline variances may not be used to permit a use or development that is specifically prohibited in an environment designation.

7.5 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner which will be consistent with the policies of RCW 90.58, particularly where denial of the application would thwart the policies of the Shoreline Management Act.

2. When a conditional use is requested, the planning commission shall be the final approval authority for the Town. However, shoreline conditional uses must have approval from the state. The State Department of Ecology shall be the final approval authority under WAC 173-27-200.

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

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

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

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

   d. The public interest will suffer no substantial detrimental effect;

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

4. Other uses not specifically set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements; however, uses specifically prohibited by this Program shall not be authorized.

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

6. The Town planning commission is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

7.6 Ecology Review

1. Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Planning Director, whether it is an approval or denial.

2. The effective date of the Town's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

3. Notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Shoreline Substantial Development Permit and either a Shoreline Conditional Use or Shoreline Variance are required for a development, the submittal of the permits shall be made concurrently. The Planning Director shall file the following with the Department of Ecology and Attorney General:

   a. A copy of the complete application per WAC 173-27-180;

   b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

   c. The final decision of the Town;

   d. The permit data sheet per WAC 173-27-990; and

   e. Where applicable, the Planning Director shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C), or in lieu thereof, a statement summarizing the actions and dates of such actions taken under RCW 43.21C.

4. Submittal of shoreline substantial development permits, shoreline conditional use permits, shoreline variances, rescissions and revisions thereof shall be deemed complete by the Department of Ecology when all of the documents required pursuant to 7.3.7(1) of this section have been received by Ecology. If the Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and so notify the Town and the applicant in writing. Ecology will not act on conditional use permit or variance submittal until the material requested in writing is submitted to the department.

5. The "Date of filing" of the final decision involving approval or denial of a shoreline substantial development permit is the date of actual receipt by Ecology of the Town's final decision on the permit.

6. The "Date of filing" involving approval or denial of a shoreline variance or shoreline conditional use permit is the date of transmittal of Ecology's final decision on the variance or conditional use permit to local government and the applicant.

7. The department shall provide a written notice to the Town and the applicant of the "date of filing" by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

8. When the Town simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in 7.3.7(4).

9. Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with Ecology and the attorney general.

10. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

11. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the Town and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit application until the material requested in writing is submitted to them.

12. Ecology shall convey to the Town and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days (30) of the date of filing by the Town. The Planning Director will notify those interested persons having requested notification of such decision.

13. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and the criteria listed in this Program.

7.7 Minimum Permit Application Submittal Requirements

1. Pursuant to WAC 173-27-180, all applications for a shoreline substantial development permit, conditional use or variance shall provide, at a minimum, the following:

   a. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

   b. The name, address and phone number of the applicant's representative if other than the applicant.

c. The name, address and phone number of the property owner, if other than the applicant.

d. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

e. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.

f. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

g. A general description of the property as it now exists including its physical characteristics and improvements and structures.

h. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

i. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

    i. The boundary of the parcel(s) of land upon which the development is proposed.

    ii. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

    iii. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

    iv. A delineation of all wetland areas that will be altered or used as a part of the development.

v. A general indication of the character of vegetation found on the site.

vi. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

vii. Where applicable, a landscaping plan for the project.

viii. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

ix. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

x. Quantity, composition and destination of any excavated or dredged material.

xi. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

xii. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

xiii. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

7.8 Appeals

7.8.1 Appeal of Town Decision

1. Appeals of the final decision of the Town with regard to shoreline management shall be governed by the provisions of EMC 18.09 and 19.09A and RCW 90.58.180.

2. An appeal of administrative decisions relating to shoreline substantial development permits, shoreline conditional use permits or shoreline variances, shall be in writing, and shall be filed with the town clerk and the Planning Director within 10 days after such decision, stating the reasons for such appeal.

3. The appeal shall be heard by the board of adjustment, and the board of adjustment shall render its decision within 60 days after the filing of such appeal with the town clerk and planning director.

7.8.2 State Shoreline Hearing Board

1. Appeals of any final permit decision may be made to the Shoreline Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedures, Review of the Granting, Denying, or Rescinding of Substantial Development Permits, Hearings).

2. All appeals of any final permit decisions must be made to the Shoreline Hearing Board within twenty-one (21) days after the Town's of Ecology's final decision concerning the shoreline permit or formal approval to revisions of the permit.

7.9 Non-conforming Uses

1. Legally established uses and developments that are nonconforming with regard to the use regulations of this Program may continue as legal nonconforming uses.

2. No existing building, structure or land devoted to a nonconforming use shall be expanded, enlarged, extended, reconstructed, intensified or structurally altered unless the use thereof is changed to a use permitted in the shoreline and underlying zoning except as follows: When authorized by conditional use permit, a nonconforming use may be expanded, enlarged, extended, reconstructed, intensified or structurally altered on land under the same ownership.

3. If a nonconforming use is changed to a conforming use, the nonconforming use shall not be resumed.

4. A use which is listed as a conditional use but which existed prior to adoption of this master program or any relevant amendment and for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use.

5. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to pre-existing nonconformities.

6. A nonconforming structure which is moved any distance must be brought into conformance with the SMP and the SMA.

7. A nonconforming use or a nonconforming structure that is discontinued or abandoned for a period of six months, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Any subsequent use shall be conforming. Normal seasonal cessation of use, or temporary discontinuance for purposes of maintenance or improvements, shall not be included in determination of the six-month period of discontinuance.

8. A non-conforming use authorized through a conditional use permit shall be considered a conforming use for the purposes of this section.

9. A legally non-conforming structure damaged by fire, flood, explosion, wind, earthquake, war, riot or other natural disaster, may be restored, reconstructed and used as before,

provided that reasonable effort is made to complete the activities within one year of such occurrence and that reconstruction does not enlarge the original non-conformity.

10. Such repairs and maintenance work as required to keep the structure in sound condition may be made to a nonconforming structure, provided no increase in nonconformity shall be allowed except as required by law or ordinance or authorized by the planning director.

CHAPTER 8. DEFINITIONS

8.1 Interpretation

These proposed SMP definitions are derived from multiple sources. Definitions denoted with ([1]) are from the existing Town of Eatonville municipal code. Definitions denoted with ([2]) are from WAC 173-26, -22, or -27 or RCW 90.58.020. Definitions denoted with ([3]) are derived from other sources or represent the best professional judgment of the authors.

8.2 Definitions

1. **Abandon**[3]. Abandon means to terminate the use of a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through non-action.

2. **Accessory Use or Structure**[1]. Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

3. **Act**[2]. Act means the Shoreline Management Act of 1971 (RCW 90.58) as amended.

4. **Alteration**[3]. Any human activity that results or is likely to result in an impact upon the existing condition of a shoreline is an alteration. Alterations include, but are not limited to, grading, filling, dredging, ditching, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

5. **Amendment**[2]. Amendment means a revision, update, addition, deletion, and/or re-enactment to the Sammamish SMP.

6. **Appurtenance**[2]. Appurtenance means a structure or development which is necessarily connected to the use and enjoyment of a single-family residence. "Normal appurtenance" means a garage, boat house, deck, driveway, utilities, and fences, and grading which does not exceed 250 cubic yards (WAC 173-14-040 (1)(g) or its successor). Appurtenances must be landward of the ordinary high water mark (OHWM).

7. **Associated Wetlands**[2]. Associated Wetlands means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

8. **Best Management Practices**[1]. Best management practices means actions known to protect soil, water quality, vegetation, and critical areas.

9. **Bioengineering**[3]. Bioengineering means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

10. **Channel Migration Zone**[2]. Channel Migration Zone means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

11. **Clearing**[3]. Clearing means limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical, or any other means.

12. **Commercial Use**[3]. Commercial use means an occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

13. **Compatible**[3]. Compatible means uses or activities capable of existing together or in the vicinity of one another without disharmony or without generating effects or impacts which are disruptive to the normal use and enjoyment of surrounding property.

14. **Conservation**[3]. Conservation means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

15. **Conditional Use, Shoreline**[2]. Conditional use means a use, development, or substantial development which is classified as a conditional use or is not classified within the master program.

16. **Critical Areas**[1]. Critical areas means those areas listed in EMC 16.20.060.

17. **Agriculture**. means the use of land for horticultural purposes.

18. **Critical Area**[1]. Critical area means those areas listed in EMC 15.16.106.

19. **Development**[1]. Development means any land use or action that alters a shoreline area or a critical area or its buffer, including town approvals that establish patterns of use such as subdivisions, short subdivisions, rezones, and conditional use permits.

20. **Development Regulations**[2]. Development regulations means the controls placed on development or land uses by a county or town, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

21. **Development Standards**[1]. Development Standards means regulations including but not limited to, setbacks, landscaping, screening, height, site coverage, signs, building layout, drainage, parking and site design and related features of land use.

22. **Dredging**[3]. Dredging is the removal of material from the bottom of a stream, river or other water body.

23. **Ecological Functions**[1]. Ecological functions, also referred to as "shoreline functions", means the work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200(2)(c).

24. **Excavation**[1].Excavation means the mechanical removal of earth material.

25. **Exempt Development**[2]. Exempt development means those uses, developments or activities set forth in Chapter 7 of the Eatonville SMP which are not required to obtain a substantial development permit under RCW 90.58.030(3)(e) and WAC 173-27-040, but which must otherwise comply with applicable provisions of the Act and this Master Program.

26. **Feasible**[2]. Feasible means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use.

27. **Fill**[1]. Fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

28. **Flood Hazard Reduction**[2]. Flood hazard reduction activities include actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

29. **Floodplain**[1]. Floodplain means the land area subject to inundation by a 100-year flood.

30. **Floodway**[1]. Floodway means the watercourse channel and adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water elevation more than one foot.

31. **Geotechnical Report or Geotechnical Analysis**[2]. Geotechnical report or geotechnical analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes,

conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

32. **Grade**[1]. Grade means the slope of a road, channel, or natural ground; the finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; or any surface prepared for the support of construction such as paving or the laying of conduit.

33. **Guidelines**[2]. Guidelines means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

34. **Habitat Improvement**[3]. Habitat improvement means any actions taken to intentionally improve the overall processes, functions and values of critical habitats, including wetland, stream and aquatic habitats. Such actions may or may not be in conjunction with a specific development proposal and include, but are not limited to, restoration, creation, enhancement, preservation, acquisition, maintenance and monitoring.

35. **Hearings Board**[2]. Hearings Board means the shorelines hearings board established by the Shoreline Management Act of 1971.

36. **Height**[2]. Height is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, That temporary construction equipment is excluded in this calculation;

37. **Impervious**[1]. Impervious refers to a hard surface area that retards the entry of water into the soil.

38. **In-stream Structure**[2]. In-stream structure means a man-made structure within a stream waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

39. **Lot**[1]. Lot means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are required in this title. Such lot shall have frontage on an approved street, and may consist of:

a. A single lot of record;

b. A portion of a lot of record;

c. A combination of complete lots of record and portions of lots of record;

d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this title.

40. **Master Program**[3]. Master Program means the comprehensive shoreline master program for the Town of Eatonville, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

41. **May**[2]. May means the action is acceptable, provided it conforms to the provisions of WAC 173-26 and this Program.

42. **Mitigation**[12]. Mitigation means:

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

b. Minimizing impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

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

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

f. Monitoring the impact and taking appropriate corrective measures.

43. **Must**[2]. Must means a mandate; the action is required.

44. **Native shoreline vegetation**[3]. Native shoreline vegetation means vegetation comprised of plant species, other than noxious weeds, which are indigenous to Pacific Northwest lowlands and that reasonably could have been expected to naturally occur on the site.

45. **No Net Loss**[2]. No Net Loss means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions. The standard is met when proposed uses or developments are in compliance with the provisions of this master program. In cases where unavoidable loss results from allowed uses or developments, the standard is met through appropriate mitigation, consistent with the provisions of this master program.

46. **Nonconforming use**[1]. Nonconforming use means the use of land, a building or a structure lawfully established prior to this title which does not conform to present regulations or standards of this SMP.

47. **Non-water Oriented Use**[2]. Non-water oriented use means any use that does not meet the definition of a water-dependent, water-related, or water-enjoyment use.

48. **Normal Maintenance or Repair**[2]. Normal maintenance or repair means interior and exterior repairs and incidental alterations. Normal maintenance and repair may include, but is not limited to, painting, roof repair and replacement, plumbing, wiring and electrical systems, mechanical equipment replacement and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.

49. **Ordinary High Water Mark (OHWM)**[2]. means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change hereafter in accordance with permits issued by the Town or the Department of Ecology. On a site-specific basis, the Department of Ecology has the final authority on determining where the ordinary high water mark is located.

50. **Permanent Structure**[3]. Permanent structure refers to a structure constructed with the intention to remain for an indefinite period of time.

51. **Permit**[2]. Permit means any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.

52. **Planning Director**[1]. Planning director means a person designated by the mayor of the town to carry out all duties related to planning.

53. **Preferred Shoreline Use**[2]. Preferred Shoreline Use is identified in the Act as a use that is unique to or dependent upon a shoreline location. Water-dependent, water-related, and water-enjoyment uses are preferred shoreline uses. Single-family residential development is also preferred use according to the Act.

54. **Prohibited**[3]. Prohibited means some developments and uses are viewed as inconsistent with the definition, policies or intent of the shoreline environment designation. For the purposes of this program, these uses are not considered appropriate and are not allowed, including by Conditional Use or Variance.

55. **Provisions**[3]. Provisions means policies, regulations, standards, guidelines, criteria, or environment designations.

56. **Public Access**[2]. Public access means the public's ability to view, get to and/or use the State's public waters, the water/land interface and associated public shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.

57. **Primary Structure**[3]. Primary structure means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure.

58. **Recreational Development**[3]. Recreational development means development that serves commercial or noncommercial recreational uses on public or private land.

59. **Redevelopment**. Redevelopment means

60. **Residential Development**. Residential development includes the development of single-family residences, including appurtenant structures and uses. Residential development also includes multi-family development and the creation of new residential lots through subdivision.

61. **Restoration**[2]. Restoration means the reestablishment or upgrading of impaired ecological processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

62. **Riprap**[3]. Riprap means broken stone placed on shoulders, banks, slopes, or other such places to protect them from erosion.

63. **Sediment**[3]. Sediment is material settled from suspension in a liquid medium.

64. **Setback**[3]. Setback means the required minimum horizontal distance between the building line and the related front, side or rear property line.

65. **Shall**[2]. Shall means a mandate; the action must be done.

66. **Shoreline Armoring**[3]. Shoreline armoring or "structural shoreline armoring" refers to bulkheads, riprap and similar hard structures installed along the shore to stabilize the bank and prevent erosion. See shoreline stabilization.

67. **Shorelands or Shoreland Areas**[2]. Shorelands or shoreland areas means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and river waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

68. **Shorelines**[2]. Shorelines means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

69. **Shorelines of the State**[2]. Shorelines of the state are the total of all 'shorelines' within the Town of Eatonville.

70. **Shoreline Buffer**[23]. Shoreline buffer means the critical areas buffers assigned to 'shoreline of the state', including the Mashell River, Ohop Creek, and Lynch Creek, by EMC 15.16.175. Buffers include an area contiguous to and required for protection of critical areas and shorelines.

71. **Shoreline Stabilization**[2]. Shoreline stabilization means actions taken to prevent or mitigate erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind or wave action. Shoreline stabilization includes structural armoring approaches such as bulkheads and revetments and nonstructural approaches such as bio-engineering.

72. **Should**[2]. Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.

73. **Soft-shore bank stabilizationh**[3]. See bioengineering.

74. **Substantial Development**[2]. Shoreline development means any development with a total cost or fair market value of five-thousand seven hundred and eighteen dollars ($5,718.00) or more that requires a shoreline substantial development permit. The threshold total cost or fair market value of $5,718.00 is set by the state office of financial management and may be adjusted in the future pursuant to SMA requirements, as defined in RCW 90.58.030(3)(e) as now or hereafter amended.

75. **Town**[3]. Town means the Town of Eatonville.

76. **Transportation Facilities**[2]. Transportation facilities means a facility whose primary purpose is the movement and circulation of people, goods, and services. This includes, but is not limited to public roads, rails, parking areas, non-motorized travel corridors, trails, and similar features. It does not include driveways that are appurtenant to single-family residences.

77. **Utilities**[2]. Utilities are facilities which produce, store, collect, treat, carry, discharge, or transmit electric power, water, storm drainage, gas, sewage, reclaimed water, communications, or other public services. Accessory utility facilities are those associated with delivery of such public services to support individual uses and developments, such as distribution or service lines.

78. **Variance, Shoreline**[2]. A variance means a type of shoreline permit intended to grant relief from the specific bulk, dimensional, or performance standards set forth in this Program and not a means to vary a use of the shoreline.

79. **Vegetation Conservation**[2]. Vegetation Conservation includes activities to protect, enhance or and native vegetation along or near shorelines to minimize habitat loss, infestations of invasive plants, and erosion and flooding and therefore contribute to the ecological functions of shoreline areas.

80. **Water-dependent Use**[2]. means a use or portion of a use which requires direct contact with the water and which cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of the operation. Ferry terminals, public fishing piers, and marinas are examples of water-dependent uses. Residential development is not a water-dependent use but is a preferred use of shorelines of the state.

81. **Water-enjoyment Use**[2]. Water-enjoyment use means those uses which provide for recreation involving the water or facilitates public access to the shoreline as the primary characteristic of the use, or a use which provides for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and, through location, design and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. To qualify as water enjoyment, a use must be open to the general public and the waterward side of the project must be devoted to provisions that accommodate public enjoyment, and the project must meet the Shoreline Master Program public access requirements. Some examples of water-enjoyment uses include viewing towers, parks, and educational/scientific reserves. A restaurant or similar use may qualify as a water-enjoyment use provided it includes public access to the shoreline.

82. **Water-oriented Use**[2]. Water-oriented use means any water dependent, water-related, or water enjoyment use.

83. **Water-related Use**[2]. Water-related use means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

    a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

    b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

84. **Water Quality**[3]. Water quality means the physical chemical, aesthetic, and biological characteristics of water.

85. **Wetlands**[1]. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. The town of Eatonville has a map showing the approximate location and extent of wetlands. However, the map is only a guide, and will be updated as wetlands become better known. The exact location of a wetland's boundary shall be determined in accordance with the above-stated manual as required by RCW 36.70A.175

8.3 Unlisted Words and Phrases

The definition of any word or phrase not listed in this SMP which is in question when administering this regulation shall be defined from one of the following sources which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition

from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

1. Town development regulations;
2. Any town resolution, ordinance, code or regulations;
3. Any statute or regulation of the state of Washington (i.e., the most applicable);
4. Legal definitions from case law or a law dictionary; and
5. The common dictionary.