

City of Lakewood
Grant No. G1000045

Shoreline Master Program
Environment Designations, Policies, and Regulations



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City of Lakewood Citizens

City of Lakewood Planning Advisory Board

City of Lakewood City Council

City of Lakewood

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Chapter 1 Introduction

A. History and Requirements of the Shoreline Management Act

Washington's Shoreline Management Act (SMA or the Act) was adopted in 1971 by referendum to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines. RCW 90.58.020 outlines the Act's three broad policies:

1. **Encourage water-dependent uses**, preferably those "consistent with control of pollution and prevention of damage to the natural environment, or unique to or dependent upon use of the state's shorelines";
2. **Protect shoreline natural resources**, including "the land and its vegetation and wildlife, and the waters of the state and their aquatic life"; and
3. **Promote public access**: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

This Act recognizes that shorelines are among the most valuable and fragile of the state's resources. The Act and the City of Lakewood recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

1. Developing an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparing a Shoreline Master Program (SMP) to determine the future of the shorelines.
3. Preparing a cumulative impact analysis to demonstrate that reasonably foreseeable development under the SMP will not result in a net loss of ecological function.
4. Developing a permit system to further the goals and policies of both the Act and the SMP.
5. Developing a Restoration Plan that includes goals, policies, and actions to restore impaired shoreline ecological functions.

B. Shoreline Master Program Development and Public Participation

The City obtained a grant from the Washington Department of Ecology (Ecology) in 2009 to conduct a comprehensive SMP update. The first step of the update process was to inventory the City's shorelines as defined by the Act, Chapter 90.58 RCW. American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek comprise the City's SMA shorelines. The inventory describes existing biological and physical conditions. These conditions were then analyzed and characterized to create a baseline from which future development actions in the shoreline will be measured.

The City identified environmental designations for the different shorelines, and policies and regulations for each were developed.

Ecology's SMP Guidelines (See Chapter 173-26-186(8) WAC) require the City to demonstrate that its updated SMP yields "no net loss" in shoreline ecological functions relative to the baseline due to its implementation. Ideally, the SMP, in combination with other City and regional efforts, will ultimately produce a net improvement in shoreline ecological functions.

C. Purposes of the Shoreline Master Program

The purposes of this SMP are:

1. To carry out the responsibilities imposed on the City by the SMA.
2. To comply with the SMP Guidelines (See WAC 173-26-186), focusing on regulations and mitigation standards to ensure that development under the SMP will not result in a net loss of ecological functions.
3. To further both the policies of Chapter 90.58 RCW and the policies of this SMP.
4. To promote public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City.

D. Shoreline Master Program Basics

The City's SMP is both a planning and regulatory document that outlines policies and development regulations for the City's shorelines.

In order to preserve and enhance the City's shorelines, it is important to consult the City Shoreline Administrator and evaluate all shoreline development proposals in terms of the City's SMP. Some developments may be exempt from obtaining a permit; however, all proposals must comply with the policies and regulations established by the SMA as expressed through this local SMP.

While the SMA defines the content and goals that local jurisdictions should include in the SMP, each community must develop specific regulations to address their individual needs. Under the SMP Guidelines, all shorelines governed by the SMA receive a shoreline environment designation. The purpose of the shoreline environment designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment.

The City has designated its shorelines on American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek under six shoreline environment designations: Aquatic, Natural, Conservancy, Urban Park, Urban - Stream Protection and Shoreline Residential. These shoreline environment designations are described in Chapter 2, Shoreline Environments.

Persons proposing any shoreline development, land use, or other projects in the shoreline area must consult with the City's Shoreline Administrator (the City's Community Development Director or designee) to determine how the proposal is addressed in the SMP.

The Shoreline Administrator will determine if a proposal is exempt from having to obtain a substantial development permit (i.e. qualifies for a Shoreline Exemption), as well as provide information on the permit application process.

Requests for variances, conditional use permits (CUPs), and/or substantial development permits require review and approval by the Shoreline Administrator and/or recommendation by the Shoreline Administrator to the Hearing Examiner, in accordance with Chapter 6 of this SMP. Requests for CUPs and variances also require final approval by Ecology. A description of exempt projects, shoreline application procedures, and criteria are discussed in Chapter 6, Administration.

A description of the area within the jurisdiction of this SMP is presented in Chapter 2: Shoreline Environments. Figure 1 depicts the general extent of shoreline jurisdiction in the City.

E. Organization of this Shoreline Master Program

This SMP is divided into seven chapters:

Chapter 1: Introduction provides general background information on the SMA; the development of the SMP in the City; and a general discussion of when and how a SMP is used.

Chapter 2: Shoreline Environments defines and maps the approximate extent of City's shoreline jurisdiction and defines and maps the environment designations of the City's shorelines. Policies and regulations specific to the six (6) shoreline environment designations are detailed in this chapter.

Chapter 3: General Policies and Regulations establishes the general policies and regulations that apply to uses, developments, and activities in *all* shoreline areas of the City, regardless of environment designation.

Chapter 4: Specific Shoreline Use Policies and Regulations sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. Specific setback regulations, reduction incentives, and dimensional and density standards are detailed in this chapter. The policies and regulations cover the following uses and activities: Aquaculture; Boating Facilities; Commercial Development; Parking (as a primary use); Recreational Facilities; Residential Development; Signs; Trails; Transportation Facilities; Utilities (Primary and Accessory); and other uses and activities.

Chapter 5: Shoreline Modification Activity Regulations provides policies and regulations for those activities that modify the physical configuration or qualities of the shoreline area.

Chapter 6: Administration provides the system by which the City's SMP will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, CUPs, and variances.

Chapter 7: Definitions defines terms found in this document.

F. Relationship between this Shoreline Master Program and Other Plans

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other applicable local, state, regional, or federal laws or regulations. In the City, this includes, but is not limited to, the Land Use and Development Code (Lakewood Municipal Code (LMC) Title 18A), the Performance Code for Building and Facilities (LMC Title 15A), the City of Lakewood Comprehensive Plan, and the Surface Water Design Manual.

G. Title

This document shall be known and may be cited as the City of Lakewood Shoreline Master Program. This document may refer to itself as 'The Master Program' or "SMP."

Chapter 2 Shoreline Environments

A. Introduction to Shoreline Environment Designations

The SMA and the SMP Guidelines provide for shoreline environment designations to serve as a tool for applying and tailoring the general policies of the SMA to local shorelines. Shoreline environment designations are intended to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities, and limitations, the aspirations of the local citizenry and the criteria in the SMP Guidelines.

Environment designations are categories that reflect the type of development that has or that should take place in a given area. The SMP Guidelines recommend classifying shoreline environments using the categories described in WAC 173-26-211(5). Additionally, local governments may establish an alternative shoreline environment designation, provided there is consistency with the purposes and policies of the SMA and the SMP Guidelines, including WAC 173-26-211(5).

Once a shoreline segment has been given an environment designation, management policies are developed. These management policies are used as the basis for determining uses and activities that can be permitted in each environment designation. Specific development standards are also established, which specify how and where permitted development can take place within each shoreline environment designation.

B. Need for Consistency

Local governments are tasked with evaluating consistency between the SMP, the Comprehensive Plan, and land use regulations under WAC 173-26-211(3). The SMA requires that policies for lands adjacent to the shorelines be consistent with the Act, implementing rules and the local SMP. Conversely, local comprehensive plans provide the underlying framework within which SMP provisions should fit. The Growth Management Act (GMA) requires that SMP policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the GMA, all development regulations must be consistent with the comprehensive plan.

The SMP Guidelines identify three criteria to assist local governments in evaluating the consistency between SMP environment designation provisions and the corresponding comprehensive plan elements and development regulations, including:

1. **Provisions not precluding one another.** Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the SMP must be able to be met. Further, when considered together and applied to any one piece of property, the SMP use policies and regulations

and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

2. **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, SMPs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.
3. **Sufficient infrastructure.** Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline environment designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

C. City of Lakewood Shoreline Jurisdiction

As defined by the SMA, lands subject to shoreline jurisdiction include “waters of the state” plus their associated “shorelands.” At a minimum, waters of the state are streams whose mean annual flow is 20 cubic feet per second (c.f.s.) or greater, and lakes whose area is greater than 20 acres. In RCW 90.58.030, Shorelands are defined as:

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

Within the City, shoreline jurisdiction includes American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, and Waughop Lake and their shorelands, as well as Chambers Creek and Clover Creek and their shorelands. Figure 1 depicts the general location of shoreline jurisdiction in the City and is illustrative in nature. The actual definition of shoreline jurisdiction as detailed in the SMA will determine the actual extent of shoreline jurisdiction on a project-by-project or parcel-by-parcel level. In the event of a mapping error, the City will rely upon common boundary descriptions and the criteria in RCW 90.58.030(2) and Chapter 173-22 WAC to determine shorelands and the extent of each environment designation.

D. City of Lakewood Shoreline Environment Designations

This SMP establishes six shoreline environment designations for the City of Lakewood's shoreline jurisdiction. These environments are derived from the City's Shoreline Analysis Report, the City of Lakewood Comprehensive Plan, and the environments recommended by the SMA and the SMP Guidelines. The City's Shoreline Analysis Report provides an inventory of natural and built conditions within the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments selected. The six (6) City shoreline environment designations in order of most intensive to least intensive are:

1. Shoreline Residential,
2. Urban - Stream Protection,
3. Urban Park,
4. Conservancy,
5. Natural, and
6. Aquatic.

These shoreline environment designations for the City are illustrated in Figure 1 (Shoreline Management Environment Designations), located at the end of the SMP, and described in the text below. Each shoreline description includes a definition and statement of purpose, followed by designation criteria, management policies, and references to development standards that are specific to that shoreline environment. Shoreline development standards in each shoreline environment are summarized in Table II in Chapter 4. Development standards pertaining to all shoreline areas are covered in Chapter 3 and development standards for particular uses are detailed in Chapter 4.

Please see Figure 1 for the Shoreline Environment Designations Map.

E. Shoreline Areas Not Mapped or Designated

Any undesignated or unmapped shorelines in the City and its Urban Growth Area are assigned automatically a Conservancy shoreline environment designation until the shoreline is re-designated through an amendment to the SMP. This includes any areas that are annexed into the City and fall within the City's shoreline jurisdiction, such as Camp Murray.

F. Management Policies and Regulations

1. Shoreline Residential Environment

a) Purpose

The Shoreline Residential environment designation is designed to provide for residential uses and structures where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses.

b) Designation Criteria

The Shoreline Residential environment designation is assigned to shoreline areas that are associated with lakes and are predominantly single-family or multi-family residential development or are platted, zoned, and planned for residential development.

c) Designated Areas

1) Description

Shoreline Residential environment areas include those shorelands adjacent to American Lake, Gravelly Lake, Lake Louise, and Lake Steilacoom that are primarily developed and/or platted and zoned for residential uses, and where that use is anticipated to continue in the future.

2) Rationale

The segments of shoreline designated as Shoreline Residential are predominately-residential land uses and all areas are platted and planned for low to moderate residential density. Urban services and infrastructure are provided to these properties.

d) Management Policies

- 1) Residential activities and developments that protect and enhance the shoreline are preferred.
- 2) Limited non-residential uses, such as water-oriented recreation facilities, parks, day care facilities, and home occupation businesses should be allowed, provided they are consistent with the residential character and the requirements of the underlying zone.
- 3) Development should be located, sited, designed, and maintained to protect, enhance, and be compatible with the shoreline environment designation.

- 4) Development regulations should require the preservation of ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- 5) Multi-family development, subdivisions of more than four lots and recreational developments should provide public access to the shoreline and joint use facilities for community recreational needs.
- 6) Low impact development (LID) best management practices (BMPs), such as minimizing effective impervious surfaces, infiltrating run-off, using green roofs and pervious pavers and other BMPs, should be implemented where feasible.
- 7) Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information, and other assistance.

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Shoreline Residential environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Shoreline Residential environment are summarized in Table II of Chapter 4.

2. Urban - Stream Protection Environment

a) Purpose

The purpose of the Urban - Stream Protection environment designation is to ensure appropriate protections for the ecological functions of Clover Creek, while recognizing the limited demand for water dependent uses in this environment. This designation reflects the current developed urban nature of most upland areas and provides for a range of uses consistent with underlying zoning, while closely regulating the intensity of development allowed within stream and wetland buffers.

b) Designation Criteria

The Urban - Stream Protection environment designation is assigned to shorelands along Clover Creek with the following characteristics:

- 1) Riparian functions impacted by historic development as documented in the Shoreline Analysis and Characterization Report;

- 2) Key management objectives include stream function enhancement, flood hazard mitigation, and fostering economically productive uses; and
- 3) A mix of urban land uses exist in upland areas, including single-family, higher density multi-family and commercial uses, depending on the underlying zoning.

c) Designated Areas

- 1) Description

The Urban - Stream Protection environment designation is assigned to areas that include Clover Creek between Lake Steilacoom and the City of Lakewood city limits, except for the shorelands in Springbrook Park adjacent to Clover Creek.

- 2) Rationale

The Urban - Stream Protection environment designation will protect and enhance stream functions by encouraging vegetative buffer enhancement and limiting development near the stream, while accommodating and allowing flexibility for existing and future uses, including single-family residential and higher intensity commercial and multi-family uses, where allowed by underlying zoning.

d) Management Policies

- 1) Stream functions should be protected, preserved and, where possible, enhanced per the Critical Areas provisions, while also encouraging redevelopment and allowing sufficient flexibility for accommodating existing and future upland shoreline uses.
- 2) Development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
- 3) Modification of the stream channel should not be allowed, except where there will be a clear improvement or restoration of stream functions.
- 4) Reflecting current land uses, a wide range of shoreline uses should be allowed outside of required setbacks and, critical areas, and buffers, including single- and multi-family residential, parks and open space, and commercial uses on existing commercial sites or where a public benefit consistent with the SMA's objectives can be provided, such as public access, mixed-use or ecological enhancement.
- 5) All uses should be consistent with the requirements of the underlying zoning. No new industrial uses should be allowed.
- 6) LID should be implemented where feasible for any development occurring within the Urban – Stream Protection environment.

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Urban - Stream Protection environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and are summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Urban - Stream Protection environment are summarized in Table II of Chapter 4.

3. Urban Park Environment

a) Purpose

The purpose of the Urban Park environment designation is to protect and restore ecological functions of open space in urban and developed settings, while allowing a variety of compatible uses, with an emphasis on water oriented recreation.

b) Designation Criteria

The Urban Park environment is assigned to areas with one or more of the following characteristics:

- 1) They are generally suitable for water-oriented recreational uses,
- 2) They have potential for ecological restoration,
- 3) They retain important ecological functions, even though partially developed, or
- 4) They have the potential for development that is compatible with ecological restoration.

c) Designated Areas

- 1) Description

Urban Park environment areas include:

- a. Shorelands in all public parks and public street ends located on lakes within the shoreline jurisdiction;
- b. Eagle Point (a private subdivision open space tract on American Lake, Parcel # 4001800540); and
- c. Lakewold Gardens (a private facility with public access on Gravelly Lake).

- d. Shorelands adjacent to Waughop Lake; and
- e. Shorelands in Springbrook Park adjacent to Clover Creek.

2) Rationale

This designation will preserve and enhance the ecological functions of the publicly owned properties and private recreational areas of the shoreline while retaining future options for active and passive water oriented shoreline recreation and public access. The publicly owned parks offer potential for ecological restoration.

d) Management Policies

- 1) Uses that preserve the natural character of the area or promote preservation of open space, either directly or over the long term, should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the current uses and conditions at the specific location.
- 2) Water dependent recreational uses, such as public access piers, recreational floats and boat launches, should be given priority over non-water dependent recreational uses, provided they can be located, designed, constructed, operated, and mitigated in a manner that ensures no net loss of ecological function.
- 3) Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
- 4) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, forest trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
- 5) Standards should be established for shoreline stabilization, vegetation conservation, water quality and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- 6) LID should be implemented where feasible for any development occurring within the Urban Park environment.

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Urban Park environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Urban Park environment are summarized in Table II of Chapter 4.

4. Conservancy Environment

a) Purpose

The purpose of the Conservancy environment designation is to protect and restore ecological functions of open space, floodplain, and other sensitive lands, while allowing a variety of compatible uses, with an emphasis on passive recreation, such as trails and wildlife viewing.

b) Designation Criteria

The Conservancy environment is assigned to shorelines with one or more of the following characteristics:

- 1) They are generally unsuitable for intensive water-dependent recreational uses;
- 2) They are open space, flood plain or other sensitive areas that should not be more intensively developed;
- 3) They have potential for ecological restoration;
- 4) They retain important ecological functions, even though partially developed; or
- 5) They have limited potential for development that is compatible with ecological restoration.

c) Designated Areas

- 1) Description

Conservancy environment areas include:

- a. Shorelands of Chambers Creek between Lake Steilacoom and the confluence of Leach Creek; and
- b. Those portions of the Oakbrook 4th Addition subdivision that fall within the shoreline jurisdiction.

2) Rationale

This designation will preserve and enhance the ecological functions of undeveloped and minimally developed portions of the shoreline and sensitive lands while retaining future options for passive shoreline recreation and public access. These areas also offer potential for ecological restoration.

d) Management Policies

- 1) Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed.
- 2) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, forest trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
- 3) Intensive water dependent facilities, such as motorized boat ramps, are generally not appropriate for these areas; limited facilities for swimming, viewing, and launch of non-motorized craft should be allowed in suitable areas.
- 4) Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
- 5) Standards should be established for shoreline stabilization, vegetation conservation, water quality and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- 6) LID should be implemented where feasible for any development occurring within the Conservancy environment.

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Conservancy environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Conservancy environment are summarized in Table II of Chapter 4.

5. Natural Environment

a) Purpose

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

b) Designation Criteria

A Natural environment designation is assigned to shoreline areas if any of the following characteristics apply:

- 1) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be changed by human activity;
- 2) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
- 3) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

c) Designated Areas

- 1) Description

The Natural environment areas include the portion of Chambers Creek that includes the south bank between the confluence of Leach Creek and where Chambers Creek crosses the western City boundary. Parcels within the Oakbrook 4th Addition subdivision are specifically excluded from the Natural environment designation.

- 2) Rationale

This portion of Chambers Creek has generally high ecological function, a largely natural shoreline and is unable to support significant new development without significant adverse impacts to ecological function.

d) Management Policies

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

- 2) The following new uses should be prohibited in the Natural environment:
 - a. Commercial uses.
 - b. Industrial uses.
 - c. Non-water-oriented recreation, except the maintenance, repair, and limited expansion of existing facilities and uses.
 - d. Roads, utility corridors, and parking areas that can be located outside of Natural environment designated shorelines.
 - e. Multi Family Residential.
 - f. Commercial forestry.
 - g. Agricultural uses.
- 3) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed if no significant ecological impact in the area will result.
- 4) Certain over-water structures, such as docks and piers, should not be allowed because of their impacts to the Natural environment and because there is not sufficient demand for these structures to support the water dependent uses on Chambers Creek.
- 5) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
- 6) The subdivision of property should not be allowed.
- 7) LID should be implemented where feasible for any development occurring within the Natural environment.

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Natural environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Natural environment are summarized in Table II of Chapter 4.

6. Aquatic Environment

a) Purpose

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

b) Designation Criteria

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

c) Designated Areas

1) Description

Aquatic environment areas include all areas waterward of the OHWM as generally shown in Figure 1, including areas waterward of the OHWM within Chambers Creek and Clover Creek, as determined on a site-by-site basis.

2) Rationale

Areas waterward of the OHWM within the City fall within the Aquatic environment designation criteria as set forth in WAC 173-26-211(5)(c). This designation intends to preserve, protect, and manage the ecological functions of all water bodies that are considered waters of the state, as defined by the SMA.

d) Management Policies

- 1) New over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration.
- 2) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- 3) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
- 4) All developments and uses on waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- 5) Uses that adversely impact the ecological functions of identified critical freshwater habitats, should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only

when their impacts are mitigated according to the sequence described in Chapter 3, Section B(4)(c)(3) of this SMP as necessary to assure no net loss of ecological functions.

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

e) Regulations

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Aquatic environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Aquatic environment are summarized in Table II of Chapter 4.

Chapter 3 General Shoreline Provisions

A. Introduction

The following policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Lakewood. General policies and regulations are broken into different topic headings. Each topic includes a description of its applicability, general policy statements, and specific regulations. The intent of these provisions is to be inclusive, making them applicable to all environments, while detailing specific requirements for particular shoreline uses and activities. Topics include the following:

1. Universally Applicable Policies and Regulations
2. Archaeological and Historic Resources
3. Critical Areas
4. Environmental Impacts and Mitigation Sequencing
5. Public Access
6. Restoration
7. Shorelines of Statewide Significance
8. Shoreline Vegetation Conservation (Clearing and Grading)
9. Water Quality, Stormwater, and Non-Point Pollution

These policies and regulations are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, the requirement that most supports the provisions of RCW 90.58.020 shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values, and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the SMP Guidelines as established in WAC 173-26-186.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a) Applicability

The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

b) Policies

- 1) The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
- 2) The City should involve affected federal, state and tribal governments in the shoreline application review process.
- 3) The City should periodically review shoreline conditions to determine whether other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shorelines. Such review should include, but is not limited to:
 - a. Water quality;
 - b. Conservation of aquatic vegetation (noxious weed control and vegetation enhancement that supports more desirable ecological and recreational conditions);
 - c. Changing visual character as result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas); and
 - d. Shoreline stabilization and modifications.

c) Regulations

- 1) All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP.
- 2) The policies listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. These policies constitute the Shoreline Element of the City's Comprehensive Plan.

- 3) If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the SMA, as determined by the Shoreline Administrator, shall apply unless specifically stated otherwise.
- 4) Shoreline uses, modifications and conditions listed as “prohibited” shall not be eligible for consideration as a variance or CUP. See Chapter 4 for Shoreline Use regulations and Chapter 6 (Administration) for exemptions, variances, conditional uses, and nonconforming use provisions.

2. Archaeological and Historic Resources

a) Applicability

The following provisions apply to archaeological and historic resources that either are recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records). Development or uses that may affect such sites shall comply with Chapter 25-48 WAC, as well as the provisions of this chapter.

b) Policies

- 1) Due to the limited and irreplaceable nature of archaeological and historic resources, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Native American tribes, and Washington State Department of Archaeology and Historic Preservation should be prevented.
- 2) New development should be compatible with existing historic structures and cultural areas.

c) Regulations

- 1) Developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Native American tribes if archaeological resources are uncovered during excavation.
- 2) A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the shoreline permit.
- 3) Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and public observation. When the Shoreline Administrator determines that a site has significant archeological, natural scientific or historical value, a substantial development permit

and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The Shoreline Administrator may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.

- 4) In the event that unforeseen factors constituting an emergency as defined in WAC 173-27-040(2)(d) necessitate rapid action to retrieve, preserve, or protect property containing artifacts or data identified above from damage by the elements, the project may be exempted from the permit requirement. The City shall notify Ecology, the State Attorney General's Office, and the State Historic Preservation Office of such a waiver in a timely manner.
- 5) Archaeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27-44 RCW (Indian Graves and Records) and Chapter 27-53 RCW (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC or its successor as well as the provisions of this SMP.
- 6) Identified historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.
- 7) Interpretive signs, plaques or other means to provide information about historical and archaeological features shall be provided, except when the location of resources are protected by state or federal law or disclosure of such information would potentially endanger the resources in question.

3. Critical Areas

Critical areas in shoreline jurisdiction are regulated by this SMP. As such, the Critical Areas and Natural Resource Lands Regulations, Ordinance No. 362 3(part), 2004, codified under Chapter 14A of the LMC, is herein incorporated into this SMP with the exceptions and modifications noted below.

a) Applicability

Exceptions to the applicability of the Critical Areas and Natural Resource Lands Regulations in shoreline jurisdiction are provided below.

- 1) If provisions of the Critical Areas and Natural Resource Lands Regulations and other parts of the SMP conflict, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.
- 2) The setbacks and buffer provisions for SMA waterbodies contained in Chapter 4, Section C shall apply.

- 3) Provisions of the Critical Areas and Natural Resource Lands Regulations that are inconsistent with the SMA and SMP Guidelines shall not apply or are specifically modified in shoreline jurisdiction, as follows:
- a. The provisions do not extend shoreline jurisdiction beyond the limits specified in Chapter 2, Section C of this SMP.
 - b. Provisions relating to exemptions in LMC Section 14A.142.070 and allowable activities such as those outlined in LMC Sections 14A.154.090 and 14A.162.090 do not relieve the applicant from obtaining a substantial development permit or other permit or approval required under this SMP, or meeting the specific requirements identified in other sections of the SMP, including, but not limited to, mitigation sequencing and the no net loss requirement.
 - c. Provisions that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, LMC Sections 14A.142.080 and 14A.142.090 do not apply. Such uses and developments require a variance in accordance with Chapter 6 of this SMP.
 - d. Provisions relating to variance procedures and criteria do not apply in the shoreline jurisdiction. Specifically, LMC Section 14A.142.110, which references variance procedures in the LMC, does not apply. Variance procedures and criteria within shoreline jurisdiction have been established in this SMP, Chapter 6 Section D and in WAC 173-27-170.
 - e. Provisions relating to nonconforming uses in LMC Section 14A.142.180 shall not apply. Please see Chapter 6, Section F for nonconforming development standards within shoreline jurisdiction.
 - f. Geologically Hazardous Areas. Provisions contained in LMC Section 14A.146.000 are hereby clarified and amended.
 - i. New development and the creation of new lots through subdivision shall not be allowed when it would cause foreseeable risk from geological conditions to people or improvements during the life of the development.
 - ii. New development that would require structural shoreline stabilization over the anticipated life of the development shall not be allowed, unless stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.
 - iii. All shoreline stabilization shall comply with Chapter 5, Section C(1 and 2).
 - g. Waughop Lake shall be subject to the setback requirements outlined in the SMP and not to the 35' buffer requirement in the LMC Section 14A.154.060(B).

- h. Identification of wetlands and delineation of their boundaries shall be done in accordance with the most recent version of the approved federal wetland delineation manual and applicable regional supplements, pursuant to WAC 173-22-035. All areas within the shoreline management area meeting the wetland designation criteria in that procedure are hereby-designated critical areas and are subject to the provisions of this SMP.
- i. Special permitted uses identified in LMC Section 14A.162.060 may be authorized pursuant to the requirements herein, however, these provisions do not relieve an applicant from complying with all other procedural and substantive requirements of this SMP, including, but not limited to, mitigation sequencing, and no net loss.
- j. Wetland Buffers. The following modifications to LMC Section 14A.162.080 shall apply.
 - i. Buffer width averaging in LMC Section 14A.162.080(B)(1) shall be limited such that the buffer at its narrowest point is no less than 75% of the standard width.
 - ii. Administrative buffer reductions allowed under LMC Section 14A.162.080(B)(2) shall be limited to 25% of the standard buffer width.
 - iii. Within shoreline jurisdiction, wetland buffers as outlined in LMC Section 14A.162.080 (A) for Category I wetlands shall not apply. Wetland buffers within shoreline jurisdiction for Category I wetlands shall be 300 feet.
- k. Mitigation. LMC Section 14A.162.100(A) shall not apply. Mitigation sequencing shall follow the requirements of Chapter 4, Section B(4)(c)(3).
- l. Agricultural Activities. LMC Section 14A.162.110 shall not apply.
- m. Alternative Review Process, Corps of Engineers, Section 404 Permit. LMC Section 14A.162.120 shall not be construed to modify the requirements contained in this SMP. In all cases, the buffer requirements identified herein shall apply and mitigation sequencing as required in Chapter 4, Section B(4)(c)(3) must be employed in the design, location and operation of the project.
- n. In-Stream Structures. Please see Chapter 5, Section C(5)(h) for regulations pertaining to in-stream structures such as dams and weirs.
- o. Channel Migration Zones (CMZ). Within the shoreline jurisdiction surrounding Chambers Creek, the Shoreline Administrator shall require a channel migration study when the City determines that a shoreline use, development or modification proposal has the potential to interfere with the process of channel migration. Potential CMZ reaches are shown on map 12 of the Shoreline Analysis Report dated October 1, 2010. The study shall include recommended measures (consistent with mitigation sequencing) that demonstrate how no net loss of ecological

functions associated with channel migration will be achieved. The proposal must demonstrate how it will avoid affecting the CMZ through utilization of nonstructural flood hazard measures and avoid the need for future shoreline modifications and structural flood hazard measures.

- p. Flood Hazard Overlay. LMC Section 14A.158.030 incorporates the Flood Hazard Overlay provisions of LMC Section 18A.40.100 by reference. In addition to the standards contained therein, the following shall apply:
 - i. Where feasible, nonstructural flood hazard reduction measures should be implemented.
 - ii. Development shall not increase flood hazards significantly or cumulatively and must be consistent with adopted and approved comprehensive flood hazard management plans, other comprehensive planning efforts, the requirements of the SMA and Chapter 173-26 WAC.
 - iii. New development and uses, including the subdivision of land, shall not be established when it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the CMZ or floodway.
 - iv. The following uses may be authorized within the CMZ or floodway:
 - a. Ecological restoration or projects that protect ecosystem processes or ecological functions.
 - b. Bridges, utility lines and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected area.
 - c. Repair and maintenance of an existing legal use, provided such actions do not cause significant ecological impacts or increase flood hazards to other users.
 - d. Modifications or additions to an existing legal use, provided that further channel migration is not limited and the new development includes appropriate protection of ecological functions.
 - e. Development where existing structures prevent active channel movement and flooding.
 - f. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition; the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural

conditions; and that the measure includes appropriate mitigation of impacts to ecological functions associated with the stream.

- v. New structural flood hazard reduction measures shall be allowed in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with the requirements of Chapter 3, Section C(8).
- vi. New structural flood hazard reduction measures shall be placed landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.
- vii. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
- viii. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this SMP and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.
- ix. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the State that evaluates cumulative impacts to the watershed system.
- x. Flood hazard overlay variance criteria and requirements in LMC Section 18A.40.160 are in addition to the standard shoreline variance criteria and requirements identified in Chapter 6, Section D(1).

4. Environmental Impacts and Mitigation Sequencing

a) Applicability

A primary concern of the SMA is the environmental impact that uses and development may have on the fragile shorelines of the state. The following policies and regulations specify how environmental impacts shall be addressed in project design, construction, and regulatory approval and apply to all uses, activities, and development, regardless of whether a permit is required.

b) Policies

- 1) Shoreline processes and ecological functions should be protected through regulatory and non-regulatory means, including acquisition of key properties and conservation easements, development regulation, and providing incentives to encourage ecologically sound design.
- 2) The scenic aesthetic quality of shoreline areas and vistas should be preserved to the greatest extent feasible.
- 3) Adverse impacts on the natural environment should be minimized during all development phases (e.g. design, construction, operation, and management) and mitigation sequencing as described in the regulations should be applied to achieve no net loss of shoreline ecological functions.
- 4) Shoreline developments that propose to enhance environmentally sensitive areas, natural characteristics, shoreline resources, and provide water oriented public access and recreational opportunities should be encouraged and are consistent with the fundamental policies of this SMP.

c) Regulations

- 1) All shoreline uses and developments shall be located, designed, constructed, and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
- 2) All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.), stabilization, landfills, dredging, groins, jetties, or substantial site regrading.
- 3) Where required, mitigation measures shall be applied in the following sequence listed in order of priority; lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable:
 - 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.
- 4) All shoreline developments shall be located, constructed, and operated so as not to be a hazard to public health and safety.
 - 5) Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation to ensure no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.
 - 6) Substantive authority under the State Environmental Policy Act may be used to mitigate any environmental impacts not specifically or adequately addressed by the regulations contained in this SMP.

5. Public Access

a) Applicability

Public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. There is a variety of types of public access, including, but not limited to, picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, and parking.

Existing formal public access to shorelines within the City includes American Lake North Park, Harry Todd Park (American Lake), Edgewater Park (Lake Steilacoom), Fort Steilacoom Park (Waughop Lake), and Chambers Creek Canyon Park. In addition, there are a number of public street ends where there may be potential for developing public access.

b) Policies

- 1) Public shoreline access should be provided and enhanced through purchase or retention of access easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing.
- 2) Shoreline areas that hold unique value for public enjoyment should be identified and retained purchased, or easements should be acquired for public use. Prioritize sites in terms of short and long-term acquisition and development.
- 3) Street crossings of Clover Creek and public street ends terminating at the creek should be considered for public access facilities.
- 4) Access should be provided for a range of users including pedestrians, bicyclists, boaters, and people with disabilities to the greatest extent feasible.
- 5) Provisions for shoreline access should be required when the proposed development can be shown to have an impact on public access to waters of the state. Shoreline projects shall not be permitted that result in any net loss of shoreline access.
- 6) Required public access exactions should be reasonably related to the nature and scope of the project's impact to public access resources. Proximity to the water, by itself, shall not constitute an impact or basis for an exaction.
- 7) The design, construction, and operation of permitted uses in the shoreline jurisdiction should be regulated to minimize interference with the public's use of the water.
- 8) Access to all shoreline areas should be improved through expanded non-motorized connections and transit service.
- 9) Shoreline public access trails should be integrated with other existing and planned regional trails where feasible to provide non-motorized access and community connections.
- 10) Existing and proposed public access and recreational uses should be ensured to not adversely affect the integrity and character of the shoreline, threaten fragile shoreline ecosystem, or impair or detract from the public's visual or physical access to the water.
- 11) Preservation and enhancement of the public's visual access to all shoreline areas should be encouraged through the establishment of setbacks and height limits that ensure view corridors, but not be construed to mean excess removal of vegetation that partially impairs views.

- 12) Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails), and habitat enhancement should be encouraged for the management of shoreline public access sites.
- 13) Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and they should be designed for accessibility by handicapped and physically impaired persons. Auxiliary facilities should be located outside of the shoreline management area or near the outer edge of the shoreline management area if feasible.
- 14) Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
- 15) Regulations should ensure that the development of active recreational facilities results in no net loss of ecological function. Regulations should address upland concerns, such as the location and design of parking and auxiliary facilities and active play areas, as well as the development of in-water and nearshore structures, such as non-motorized boat launches, piers, and swimming areas.
- 16) Public access facilities should be constructed of environmentally friendly materials, use LID BMPs where feasible, and sustain natural processes.
- 17) Regulations should provide guidance for the construction of trails in particularly environmentally sensitive shoreline segments along Chambers Creek and Waughop Lake.

c) Regulations

- 1) Where the City has shown that a project would have an adverse impact on existing public access to the waters of the state or create a new demand for public access, provisions shall be made to mitigate the impact/meet the projected demand and ensure that there is no net loss to public access resources or opportunities. Examples of impacts to shoreline access resources or new demand include, but are not limited to:
 - a. The development would result in increased demand for shoreline access by the location of new dwelling units within the 200' SMA jurisdiction without physical shoreline access for each unit.
 - b. The development would foreclose an opportunity to access an area without existing public access, or where the opportunity for access is unique.
 - c. The proposed development would interfere with existing public access.

- d. The proposed development would interfere with planned public access facilities shown in an adopted plan, ordinance, or resolution of the Lakewood City Council.
 - e. The proposed development would create additional potential demand for emergency response services without adequate potential access to the shoreline for emergency responders.
 - f. Instances where there is an existing public access or access easement applicable to the property.
- 2) The Community Development Director may authorize reasonable adjustments to development standards such as lot coverage, minimum lot width, setbacks, etc. in order to accommodate public access. Such adjustments may require a variance in accordance with Chapter 6(D)(1).
 - 3) Development exactions for public access shall be reasonably related to the scope and nature of the project and its impact to public access. Access may be limited to the final users or residents of the development where full public access is not required to mitigate the identified impact.
 - 4) Alternatively, a developer may provide a fee in lieu of actual on-site public access provisions if the City has adopted an applicable in-lieu fee program, and if such a program would effectively mitigate the impact of the development on shoreline access.
 - 5) Developments, uses, and activities shall be designed and operated to avoid blocking, reducing or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, natural vegetation shall not be excessively removed either by clearing or by topping.
 - 6) Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.
 - 7) Public access sites shall be made barrier free for the physically disabled where feasible.
 - 8) Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
 - 9) Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat, if applicable, or short plat as a condition running in perpetuity with the land. Recording with the Pierce County Recorder's Office shall occur at the time of permit approval (See RCW 58.17.110; relating to subdivision approval).
 - 10) The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.

- 11) Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
- 12) Physical public access shall be designed to prevent significant impacts to sensitive natural systems, follow the mitigation sequence identified in Chapter 3, Section B(4)(C)(4) and achieve no net loss of shoreline ecological function .
- 13) Where public access is to be provided by a trail the requirements contained in Chapter 4, Section (D)(8) shall apply.
- 14) Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline.
- 15) The Administrator may waive the requirement for public access where it is demonstrated to be infeasible due to reasons for incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other applicable legal limitations. In determining infeasibility, the Administrator shall consider alternate methods of providing public access such as offsite improvements, viewing platforms, separation of uses and restricting hours for public access.

6. Restoration

a) Applicability

Restoration refers to the reestablishment or upgrading of impaired ecological shoreline processes or functions. The following policies are intended to guide actions to improve shoreline ecological functions over time where such functions have been degraded. Restoration is distinct from mitigation measures necessary to achieve no net loss of shoreline functions and the City's commitment to plan for restoration will be implemented primarily through non-regulatory means (e.g. incentives, public projects and voluntary private actions).

b) System-Wide Restoration Policies

- 1) Areas that are biologically and aesthetically degraded should be reclaimed and restored to the greatest extent feasible while maintaining appropriate use of the shoreline. Water quality of all water bodies within the shoreline management area should be improved by managing the quality and quantity of stormwater in contributing systems, consistent with the latest Ecology Stormwater Management Manual for Western Washington.
- 2) The quality, width, and diversity of native vegetation in protected corridors adjacent to lake and stream habitats should be increased to provide safe migration pathways for fish and wildlife, food,

nest sites, shade, perches, and organic debris. Strive to control non-indigenous plants or weeds that are proven harmful to native vegetation or habitats.

- 3) Work should continue with other jurisdictions and stakeholders on implementation of the Water Resource Inventory Area (WRIA) 12 Plan.
- 4) Funding for various restoration actions and programs should be sought from local sources and by working with other WRIA 12 jurisdictions and stakeholders to seek federal, state, grant and other funding opportunities.
- 5) A public education plan should be developed to inform private property owners in the shoreline zone and in the remainder of the City about the effects of land management practices and other unregulated activities (such as pesticide/herbicide use, car washing) on fish and wildlife habitats.
- 6) Lake area and wetland should be protected, enhanced, and restored throughout the contributing basin where functions have been lost or compromised.

c) SMA Restoration Policies

- 1) Waughop Lake (Fort Steilacoom Park), American Lake North Park, Harry Todd Park, and Edgewater Park should be targeted for restoration of shoreline natural resources and functions while ensuring continued public access to the shoreline.
- 2) Restoration of aquatic and riparian habitat along Clover Creek should be encouraged and accomplished over time through incentives for private property owners, stormwater management improvements, and City capital improvement projects.
- 3) The City should collaborate with Pierce County and the City of University Place for any restoration activities that would improve habitat and other ecological functions within Chambers Creek Canyon Park.
- 4) The City, Washington State Parks, and Pierce County should protect natural areas and continue to identify and implement shoreline restoration projects at Fort Steilacoom Park, while ensuring continued public access.
- 5) Ecological functions of lake shorelines should be improved by removing bulkheads and replacing these features to the extent feasible with bioengineered stabilization solutions to improve aquatic habitat conditions.
- 6) Ecological functions of streams and related habitat with stream bank stabilization should be improved using native vegetation.

- 7) American Lake North Park and Harry Todd Park should be targeted for limited habitat enhancements that are designed and sited to be compatible with the heavy active recreation use at these parks. Opportunities include planting of native vegetation where appropriate.
- 8) Habitat conditions should be improved by increasing large woody debris recruitment potential through plantings of trees along the lakeshore, particularly conifers. Where a safety hazard will not be created, installation of large woody debris should be encouraged to meet short-term needs.
- 9) Single-family residential properties should be targeted with incentives, outreach, and information for homeowners who are willing to voluntarily remove bulkheads, plant native vegetation and recruit large woody debris.
- 10) The amount and impact of overwater and in-water structures should be decreased within SMP lakes through minimization of structure size and use of more environmentally friendly materials, including grated decking.
- 11) American Lake North Park, Harry Todd Park, Springbrook Park and Open Space, and Chambers Creek Canyon Park should be targeted for the use of environmentally friendly materials and design during the future planned development of recreational facilities.
- 12) Native vegetation should be preserved and restored along shorelines to the greatest extent feasible.
- 13) Aquatic invasive species in American Lake, Gravelly Lake, Lake Louise, and Waughop Lake should be monitored and controlled, and participation in lake-wide efforts at Lake Steilacoom should continue to reduce populations of non-native aquatic vegetation.
- 14) Restoration projects may include shoreline modification actions such as vegetation modification, shoreline stabilization, dredging or filling in accordance with all applicable provisions in this SMP and provided the primary purpose of such actions is clearly restoration of natural character and ecological functions of the shoreline.
- 15) In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Program.
- 16) Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.

7. Shorelines of Statewide Significance

a) Applicability

The SMA designated certain shoreline areas as shorelines of statewide significance. American Lake is a shoreline of statewide significance. Such shorelines are considered major resources from which all people of the state derive benefits, thus preference is given to uses, which favor long-range goals and support the overall public interest.

b) Policies

In implementing the objectives for shorelines of statewide significance, the City should consider the following policies in order of priority, 1 being the highest and 6 being the lowest.

- 1) Recognize and protect the statewide interest over local interest.
 - a. Make all information associated with this SMP and proposed amendments publicly available, and consider comments and opinions from groups and individuals representing statewide interests when developing and amending the SMP.
- 2) Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline environment designations and use regulations to protect and restore the shoreline ecology and character.
 - b. Protect and restore diversity of vegetation and habitat associated with shoreline areas.
- 3) Support actions that result in long-term benefits over short-term benefits.
 - a. Restrict or prohibit development that would irreversibly damage shoreline resources.
- 4) Protect the resources and ecology of the shoreline.
 - a. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
 - b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
- 5) Increase public access to publicly owned areas of the shorelines.

- a. Implement a comprehensive wayfinding signage program that directs the public to publicly owned shoreline areas.
- 6) Increase recreational opportunities for the public in the shoreline.
 - a. Plan for and encourage development of facilities for recreational use of the shoreline.

8. Shoreline Vegetation Conservation (Clearing and Grading)

a) Applicability

The following provisions apply to any activity, development, or use which results in the removal of or affect to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities.

b) Policies

- 1) Native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and should mitigate the direct, indirect, and/or cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:
 - a. Providing shade necessary to maintain water temperatures required by salmonids and other organisms for all or a portion of their lifecycles.
 - b. Regulating microclimate in riparian and nearshore areas.
 - c. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
 - d. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
 - e. Reducing introduction of fine sediment into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
 - f. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
 - g. Providing a source of large woody debris to moderate stream flows, create hydraulic roughness, form pools and increase structural diversity for salmonids and other species.

- h. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover.
- 2) Management and control of noxious and invasive weeds should be encouraged, preferably by using non-toxic or natural controls. Control of such species should be done in a manner that retains on-site native vegetation, provides for erosion control, and protects water quality.
 - 3) Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever feasible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.
 - 4) All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.
 - 5) Incentives for the retention and planting of native vegetation should be provided, and extensive lawns should be discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications particularly in areas recommended for designation as Shoreline Residential. Incentives could include additional flexibility with building setbacks from American Lake, Gravelly Lake, Lake Louise, and Lake Steilacoom, a simplified permit process with recommended planting plans, reduced or waived permit fees, and/or City participation in a pilot-project that promotes shoreline restoration.
 - 6) The City should explore opportunities for the planting and enhancement of native vegetation at American Lake North Park, Harry Todd Park, Edgewater Park, and Fort Steilacoom Park.
 - 7) In order to increase habitat and address other ecological functions within the shoreline environment such as wave attenuation, temperature regulation, and bank stabilization, homeowners and property managers should be encouraged to leave diseased and fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.
 - 8) The removal of mature trees and native vegetation along American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek should be regulated in a manner that provides greater protection than the current Tree Preservation regulations (LMC Section 18A.50.300). In particular, removal of non-hazardous mature trees and native vegetation within the required setback of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek should be severely restricted regardless of lot size or use.
 - 9) The City should provide information to the public about environmentally appropriate vegetation management, landscaping for shoreline properties and alternatives to the use of pesticides and herbicides, which affect water quality and aquatic habitat.

10) Property owners should use the following BMPs when maintaining residential landscapes:

- a. Avoid use of herbicides, fertilizers, insecticides, and fungicides along drainage channels, and shores of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, as well as in the water.
- b. Limit the amount of lawn and garden watering to avoid surface runoff.
- c. Dispose of grass clippings, leaves, or twigs properly; do not sweep these materials into the street, into a body of water, or near a storm drain.
- d. Use native plant materials wherever possible in soil bioengineering applications and habitat restoration activities for aquatic weed management. Remove, destroy, and modify aquatic vegetation only to the extent necessary to allow water-dependent activities to continue and in a manner that minimizes adverse impacts to native plant communities. Handle and dispose of weed materials and attached sediments appropriately.

c) Regulations

- 1) Clearing and grading activities and related alteration of the natural landscape within shoreline jurisdiction shall only be allowed in association with a permitted shoreline use, activity or development, with limited exceptions as set forth below:
 - a. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with BMPs and the City's engineering and stormwater design standards, and native vegetation shall be promptly reestablished in the disturbed area. Noxious weeds removed under this provision shall be removed by hand or using small equipment to minimize negative impacts to the shoreline environment.
 - b. Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes, and other activities allowed pursuant to these regulations, if said modification is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.
 - c. Maintenance or view restoration provided that said activity is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitat areas.
 - d. Removal of non-native vegetation, including trees up to six inches in diameter at breast height (dbh), provided all areas of exposed soil are replanted or stabilized.

- 2) All clearing and grading activities must also adhere to the requirements of this SMP and the City's code pertaining to land clearing and grading (Chapter 12A LMC - Public Works; LMC Sections 18A.50.400 - 18A.50.445 - Landscaping; LMC Section 18A.50.231 - Landscape design objectives for specific uses). Additional clearing and grading performance standards may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.
- 3) Shoreline developments shall address vegetation conservation and maintenance through compliance with this Section, the critical area standards incorporated in Appendix A, mitigation sequencing required in Section B(4)(c)(3) of this Chapter, and any other regulations specific to vegetation management that may be contained in other chapters of this SMP.
- 4) In all shoreline areas, land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.
- 5) Properties within the setbacks and buffers of Chambers Creek, Clover Creek, and Waughop Lake shall maintain native vegetation in an undisturbed state.
- 6) Native understory vegetation and trees within the shoreline setbacks in all environments shall be retained, unless removal is necessary to provide water access, to provide limited view corridors, to mitigate a hazard to life or property, or removal is in association with a permitted development. Any removed vegetation shall be replaced to assure no net loss in ecological functions.
- 7) Native understory vegetation and trees within the Natural environment shall be retained, unless removal is necessary to mitigate a hazard to life or property or allow for limited development associated with an educational, historic, water-oriented recreation, or cultural interpretation facility. Any removed vegetation must be replaced and/or enhanced to assure no net loss in ecological functions.
- 8) Within all other shoreline areas, outside of setbacks and buffers, tree removal shall be limited to the minimum necessary to accommodate proposed structures and uses or to mitigate a hazard to life or property. Significant trees, as defined in LMC Section 18A.50.320 shall be replaced according to a tree replacement plan prepared by a qualified professional that demonstrates how no net loss will be achieved.
- 9) The City shall require a shoreline vegetation management plan (SVMP) prepared by a qualified professional as part of any Substantial Development Permit that includes tree removal and land clearing. The City may require a SVMP for exempt activities or other permits involving tree removal and land clearing where necessary if project plans or other information does not clearly demonstrate compliance with this section. The SVMP shall document compliance with the mitigation sequence and identify appropriate compensatory mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions. See Chapter 4,

Section C(3)(a)(4 and 5) for additional SVMP requirements when the proposal involves an administrative setback reduction. The Citywide tree standards contained in LMC Section 18A.50.300 (Ordinance #264, 2001) shall be the minimum compensatory mitigation standards and the Shoreline Administrator may require additional compensatory mitigation to meet the no net loss standard. All development, including, but not limited to, development on lots that are less than seventeen thousand (17,000) square feet that would otherwise be exempt under the Citywide tree regulations, shall be required to comply with the standards contained in this SMP as well as those in Title 18A LMC.

- 10) Restoration of any shoreline that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to what most recently occurred on-site may be used.
- 11) Snags and downed trees that are not in the path of proposed improvements and do not pose a hazard to life or property shall be retained for wildlife habitat.
- 12) Placement of fifty (50) cubic yards or more of material from off-site (other than surcharge or preload), or the creation or raising of dry upland shall be considered fill and shall comply with the fill provisions in Chapter 5.
- 13) Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished.
- 14) Stabilization of exposed erosion-prone surfaces within the shoreline environment shall utilize soil bioengineering techniques wherever feasible instead of hardscape or structural techniques.
- 15) Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where weeds restrict an existing water dependent use. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Ecology and Washington Department of Fish and Wildlife (DFW) requirements. Aquatic vegetation control by mechanical methods is exempt from the requirement to obtain a substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level will disturb the bottom sediment and benthos layer.
- 16) The control of aquatic vegetation by de-rooting, rotovating or other methods, which disturb the bottom sediment or benthos, shall be considered development for which a substantial development permit is required.
- 17) The application of herbicides or pesticides in American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, wetlands, or surface water

conveyances requires a permit from the Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

- 18) Prior to issuance of any construction, grading, or building permits, the City may require that the permittee post a cash guarantee to assure compliance with vegetation conservation standards. This amount should be equal one hundred fifty percent (150%) of the City Engineer's estimated cost of the project, or no less than two thousand dollars (\$2,000) unless specific proposal details support an alternative amount.
- 19) Prior to final issuance of a building permit, land use permit, or occupancy, a cash guarantee equal to thirty percent (30%) of the landscaping replacement cost may be required to assure compliance with vegetation conservation standards. The cash guarantee may be maintained for a three (3) year period, at which point the Shoreline Administrator will determine if the surety will be released or extended to maintain landscaped areas.
- 20) The Shoreline Administrator shall require the cash guarantees identified above when the proposal involves a variance, a setback reduction consistent with the flexible setback provisions of Chapter 4, Subsection C(3), or work within a critical area or buffer as defined in Appendix A.

9. Water Quality, Stormwater, and Non-Point Pollution

a) Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality and storm water quantity. Human occupation and shoreline area development affect water quality in numerous ways. For example, higher peak stormwater discharges at greater velocities caused by an increase in development and impermeable surfaces leads to scouring and stream bank erosion. Erosion increases suspended solids concentrations and turbidity in receiving waters, and carries heavy metals, household wastes, excess nutrients, and other pollutants into these waters. Increased nitrogen and phosphorus enrichment results in algal growth that depresses levels of dissolved oxygen in receiving waters. Water quality degradation adversely affects wildlife habitat and public health.

Maintaining high water quality standards and restoring degraded systems has been mandated in Chapter 90.58 RCW. In January of 2007, the City received its Western Washington Phase II Municipal Stormwater Permit from the Ecology. Under this permit, the City developed a Stormwater Management Program.

b) Policies

- 1) All shoreline uses and activities should be located, designed, constructed, and maintained to mitigate the adverse impacts to water quality.

- 2) Water quality education efforts should be used to reduce the potential sources of pollutants to American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek and other natural waterways. Phosphorous reduction sources in the Lake Steilacoom and American Lake sub-basins and fecal coliform sources in the Chambers Creek and Clover Creek sub-basins should be emphasized until the City can provide sufficient data to Ecology to have 303d listing removed from these water bodies. The 303d listing is comprised of those waters that are in the polluted water category under the Clean Water Act, for which beneficial uses- such as drinking, recreation, aquatic habitat, and industrial use - are impaired by pollution. Phosphorous sources include, but are not limited to, failing septic systems and residential fertilizer application. Fecal coliform pollutant sources include, but are not limited to, failing septic systems, and duck, geese and dog feces.
- 3) Stormwater impacts should be addressed through the application of the Adopted Surface Water Design Manual and all applicable City stormwater regulations.
- 4) New impervious surfaces should be limited within the shoreline management area by setting maximum impervious surface standards for new development and redevelopment and by encouraging pervious pavement use and other LID BMPs where feasible.
- 5) The City should work with the Tacoma-Pierce County Health Department to ensure existing septic systems are working properly to prevent groundwater and surface water degradation through excessive inputs of nutrients (nitrogen and phosphorus) and hazardous microbes, with an emphasis on the Chambers Creek and Clover Creek subbasins due to their 303(d) listing for fecal coliform.
- 6) The City should work with Pierce County Public Works and Utilities and the Tacoma-Pierce County Health Department to require sanitary sewer system connection when existing properties on septic systems are developed, redeveloped, or substantially modified.
- 7) The City should continue to provide general information to the public about the land use and human activities which impact water quality by encouraging educational curricula that provide students with first hand exposure to the issues and solutions, and through community activities, such as Adopt-A-Stream programs.
- 8) The City should encourage homeowners and property managers to maintain and enhance vegetation that supports water quality functions and to use non-chemical weed and pest control solutions and natural fertilizers.

c) Regulations

- 1) All shoreline uses and activities shall utilize BMPs to minimize any increase in surface runoff and to control, treat, and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected during both construction and operation. Physical control

measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains, and landscaped buffers. All types of BMPs require regular maintenance. BMPs are identified in the City's adopted stormwater manual.

- 2) Structural stormwater facilities, such as vaults, pipes and catch basins, shall be located outside of the shoreline setback, unless the Shoreline Administrator determines that such location is not feasible.
- 3) Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.
- 4) The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected as determined by the Shoreline Administrator.
- 5) All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.
- 6) All shoreline development shall implement applicable LID BMPs where feasible, pursuant to the standards contained in the adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.

Chapter 4 Shoreline Use Provisions

A. Applicability

As required by the SMA, this SMP sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development (Primary and Accessory), Forest Practices, Industrial Development, Mining, Parking (as a primary use), Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities (Primary and Accessory). The policies and regulations provide the basic criteria for evaluating shoreline permit applications and exemptions and are used to implement the broader goals, policies and intent of the SMA and this Program.

This SMP contains limited provisions related to commercial or industrial development along the shorelines of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek. These water bodies, with the exception of Waughop Lake and portions of Chambers Creek, are substantially developed with residential uses, with little undeveloped shoreline remaining. As such, access to the water is primarily related to recreation and residential uses and is not considered particularly important to commercial or industrial interests.

B. General Policies

- 1) When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, the following should be applied in the order of preference listed below:
 - a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
 - b. Reserve shoreline areas for water-dependent and associated water related uses.
 - c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
 - d. Treat single-family residential uses as a preferred use and encourage the continuation and development of this use where it can occur without significant impact to ecological functions or displacement of water-dependent uses.
 - e. Limit non-water-oriented uses to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA, including opportunities for ecological enhancements and public access improvements.

- 2) Proposed shoreline use should be consistent with the City's Comprehensive Plan. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this SMP.
- 3) All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views, and achieve no net loss of shoreline ecological functions.
- 4) The use of "Green Building" practices should be encouraged, and in some cases required where feasible, such as LID and those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
- 5) Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
- 6) Shoreline uses, which enhance their specific areas or employ innovative features for purposes consistent with this program, should be encouraged.
- 7) Restoration in shoreline areas that have been degraded or diminished in ecological value and function because of past activities or catastrophic events should be encouraged.

C. Shoreline Use and Development Standards

Table I and Table II indicate the allowable uses by shoreline environment designation and the key standards that apply to development. The standards in this section are supplemental to standards in other portions of this SMP.

1. Shoreline Use Table

Table I. Shoreline Uses

KEY

P³ = Permitted Use

C = Conditional Use

X = Prohibited

Shoreline uses are allowed only if permitted in both the shoreline environment designation and the underlying zone.

A use that occurs on both landward and waterward of the OHWM must meet the requirements of both the specific upland shoreline environment designation as well as the aquatic environment designation. Please also refer to specific use policies and regulations in Section 4 below.

SHORELINE USE	SHORELINE RESIDENTIAL	URBAN-STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
Agriculture	X	X	X	X	X	X
Aquaculture	C	C	C	C	X	C
Boating Facilities ¹						
Marinas (Public or Private)	C	X	C	X	X	C
Floating Homes and Live Aboards	X	X	X	X	X	X
Community Piers and Docks (Private Shared Use)	P	X	P	X	X	P
Public Pier	C	X	P	X	X	P
Boat Launch ⁴	C	X	C	X	X	C
Water-Oriented Commercial ²	C	P	C	C	X	C
Non-Water Oriented Commercial ²	C	P	C	C	X	X
Forest Practices	X	X	X	X	X	X
Industrial	X	X	X	X	X	X
Mining	X	X	X	X	X	X
Parking						
Parking (As a Primary Use)	X	X	X	X	X	X
Parking (As an Accessory Use)	P	P	P	X	X	X
Recreation ³						
Water-Dependent	P	P	P	P	P	P
Water-Enjoyment	P	P	P	P	P	P
Non-Water Oriented (As an Accessory Use)	P	P	P	P	C	X
Non-Water Oriented (As a Primary Use)	X	C	X	X	X	X

KEY

P³ = Permitted Use

C = Conditional Use

X = Prohibited

Shoreline uses are allowed only if permitted in both the shoreline environment designation and the underlying zone.

A use that occurs on both landward and waterward of the OHWM must meet the requirements of both the specific upland shoreline environment designation as well as the aquatic environment designation. Please also refer to specific use policies and regulations in Section 4 below.

SHORELINE USE

	SHORELINE RESIDENTIAL	URBAN-STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
Residential Structures						
Single-Family	P	P	C	C	C	X
Multi-Family	P	P	X	X	X	X
Scientific, Historical, Cultural, or Educational Uses	P	P	P	P	P	P
Transportation Facilities						
New Public Roads	P	C	C	C	C	C
Expansion of Existing Roads and New Driveways	P	P	P	P	C	C
Major Trails	C	C	C	C	X	C
Minor Trails	P	P	P	P	P	C
Utilities (Primary)						
Solid Waste Disposal or Transfer Sites	X	X	X	X	X	X
Other	C	C	C	C	C	C
Utilities (Secondary)						
All	P	P	P	P	C	C
Other Uses and Activities						
Restoration Activities	P	P	P	P	P	P

¹ See Chapter 5 (Shoreline Modifications) for specific types of in-water or over water structures/facilities allowed in each environment (e.g. piers, docks and floats). Please note, boat ramps and overwater structures are not allowed in the Urban - Stream Protection, Conservancy, and Natural environments.

² In the Shoreline Residential, Conservancy and Urban Park environments, only water-oriented commercial activities or limited accessory commercial uses are allowed, e.g. day care in Shoreline Residential and concessions in the Urban Park, per the use standards in Commercial Uses in this SMP and in the underlying zoning.

³ See permit requirements and exemptions in Chapter 5 and Chapter 6.

⁴ Launching rails are not considered boating facilities for purposes of this Section. Launching rails are not intended to serve more than four (4) residences. For launching rail provisions, see Chapter 5.

2. Shoreline Development Standards Table

Table II. Shoreline Development Standards

DEVELOPMENT STANDARD	SHORELINE RESIDENTIAL	URBAN - STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
Maximum Height ¹	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	N/A ³
Shoreline Setback or Buffer By Waterbody ^{2,4} Note: Setback requirements apply to all lakes and buffer requirements apply to streams. See definitions for more information. Along streams, an additional 8 ft. building setback shall apply to edge of the buffer per Critical Area standards.	65 ft. Setback (Note: May be reduced to 50 ft. with enhancement)	Clover Creek 65 ft. Buffer (Note: May be reduced to 50 ft. with enhancement)	100 ft. Setback for Urban Park properties on all lakes (Note: May be reduced to 75 ft. with enhancement) Clover Creek 65 ft. Buffer (Note: May be reduced to 50 ft. with enhancement.)	150 ft. Buffer (Note: No reduction allowed unless a variance is obtained)	150 ft. Buffer (Note: No reduction allowed unless a variance is obtained)	N/A ³

DEVELOPMENT STANDARD	SHORELINE RESIDENTIAL	URBAN - STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
Maximum Impervious Surface Coverage within shoreline jurisdiction ⁵	35% (R1 and R2) 50% (R3) 60% (R4) 50% (ARC) 60% (MR2) 70% (NC1) 80% (NC2) Provided an additional 10% of site coverage using pervious pavements shall be allowed	See adjacent column for Shoreline Residential	30%	20%	5%	N/A ³
Maximum Impervious Surface or Hard Surface Coverage within Shoreline Setback or Buffer. Note: Pervious pavements required where feasible	10% within 25 ft. of the OHWM, 20% within remaining portion of setback	See critical area buffer requirements	10% within 25 ft. of OHWM, 20% within remaining portion of setback for Lakes See critical area buffer requirements for stream	See critical area buffer requirements	See critical area buffer requirements	N/A ³
Minimum Lot Frontage	50 ft. (Lake Louise) 60 ft. (American Lake and Gravelly Lake) 70 ft. (Lake Steilacoom)	100 ft.	No further subdivision allowed	No further subdivision allowed	No further subdivision allowed	N/A ³

DEVELOPMENT STANDARD	SHORELINE RESIDENTIAL	URBAN - STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
Minimum Lot Size and Lot Density	Underlying zoning: R1 - 25,000 gsf R2 - 17,000 gsf R3 - 7,500 gsf R4 - 5,700 gsf	Underlying zoning: R1 - 25,000 gsf R2 - 17,000 gsf R3 - 7,500 gsf R4 - 5,700 gsf MF2 - 35 dua MF3 - 54 dua	No further subdivision is allowed	No further subdivision allowed	No further subdivision is allowed	N/A ³

¹ Height limits apply to all permanent and temporary structures. Development shall also be subject to the height limits established by the underlying zoning. The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

² Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The standard setback applies unless the applicant implements voluntary enhancements as described in the following regulations and in Table III below. Where allowed, the setback may be reduced by the Shoreline Administrator to the minimum setback indicated in Table II. See zoning regulations for interior lot setbacks and other requirements that apply to specific zones. In the event of a conflict between a provision in this SMP and a provision in another part of the LMC, the requirement that provides the most protection to the shoreline management area shall be applied.

³ Not Applicable. Land-based standards do not apply in the Aquatic environment because only water dependent structures and development, such as docks, are allowed. Height of all structures shall be the minimum necessary for the proposed water dependent use.

⁴ Activities and improvements associated with ecological restoration or interpretation, water-oriented uses, and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking be allowed within the minimum setback. Allowed structures include (but are not limited to) upland boathouses, gazebos, viewing platforms and decks.

⁵ Partial credit may be given for using pervious pavements for driveways, parking areas, walkways, and patios, based on City review of the specifications for the particular product used. In no case shall the credit be used to develop more than an additional 10% of the lot with the pervious pavement. Please note that impervious surface coverage may be further limited within the setback or buffer pursuant to the development standards in this Chapter.

3. Flexible Shoreline Setback and Buffer Regulations

- a) The following standards shall apply for all proposals that request a reduction in the standard shoreline setback or buffer identified in Table II:

- 1) The standard setback or buffer may be reduced down to the minimum setback or buffer identified in Table II for each eligible shoreline environment designation and water body when setback reduction impacts are mitigated using the options provided in Table III to achieve an equal or greater protection of lake or stream ecological functions. Any setback or buffer reduction requests beyond that allowed in Table II shall require a variance. Within the Conservancy and Natural environments, buffer reductions shall only be approved as part of the variance process. Variance approval criteria are described in Section 6.D.
- 2) At least one (1) water-related action must be undertaken in order to achieve the full reduction allowed.
- 3) A maximum of ten (10) feet in cumulative reduction may be achieved under Upland Related Actions.
- 4) All property owners who obtain approval for a setback or buffer reduction must have prepared and agree to adhere to a SVMP approved by the Shoreline Administrator and record the final approved setback or buffer and corresponding conditions in a Notice on Title. The Notice on Title shall include a statement regarding the existence of the SVMP and it shall be provided to the Shoreline Administrator.
- 5) The SVMP shall detail the required restoration of native vegetation. The SVMP shall consist of a mixture of trees, shrubs, and groundcover and be designed to improve shoreline ecological functions. The SVMP shall include appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality. The SVMP shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:
 - a. The goals and objectives for the mitigation plan;
 - b. A description of how required mitigation sequencing was implemented;
 - c. Mitigation performance standards, including standards for vegetation coverage and survival;
 - d. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator for a period of no less than two (2) growing seasons nor more than five (5) years sufficient to establish that performance standards have been met as determined by the Shoreline Administrator; and
 - e. A contingency plan.
- 6) Whenever the Shoreline Administrator determines through progress report review that mitigation performance standards have not been achieved, the property owner shall be required to institute corrective action, which shall also be subject to further monitoring as provided in this section.

- 7) The Shoreline Administrator may require a cash guarantee or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five (5) years. The Shoreline Administrator shall establish the conditions of the security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.
- 8) All costs associated with the mitigation/monitoring and planning including City expenses, shall be the responsibility of the applicant.
- 9) Impervious surface coverage within the approved lake setback shall be limited to ten percent (10%) within twenty-five (25) feet of the OHWM and twenty percent (20%) within the remaining portion of the applied setback. All development within buffers, including impervious surface, is subject to the requirements for Critical Areas contained in this SMP.

Table III. Shoreline Setback and Buffer Reduction Mechanisms

REDUCTION MECHANISM		REDUCTION ALLOWANCE
Water Related Actions		
1	Removal of an existing bulkhead which is located at, below, or within 5 ft. landward of the shoreline's OHWM and subsequent shoreline restoration to a natural or semi-natural state, including restoration of topography, beach/substrate (lake bottom) composition and stabilization of areas that have been disturbed by the bulkhead removal with native vegetation.	Bulkhead removal on at least 75% of frontage: 15 ft. 50% of frontage: 10 ft. 25% of frontage: 5 ft.
2	Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline feature such as upland impervious surfaces or other structural alterations allowed) within 10 ft. of the OHWM, including restoration of native vegetation. This reduction will only be granted if ecological functions would be improved relative to the existing condition.	10 ft.
3	Existing hard structural stabilization at or near the OHWM is removed and new hard structural shoreline stabilization measures are setback from the OHWM between two (2) ft. to four (4) ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat. See Chapter 6 for stabilization measure types and additional standards. For purposes of this reduction mechanism only, need for the replacement structure is not required to be demonstrated as outlined in Chapter 5, Section (C)(2)(c), Shoreline Stabilization – Replacement and Repair.	5 ft.
4	Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. Measures may include the use of gravels, cobbles, limited use of boulders in conjunction with other measures, and logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal	5 ft.
Upland Related Actions		
5	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75% of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25%	10 ft.

REDUCTION MECHANISM		REDUCTION ALLOWANCE
	of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 20 ft. of frontage may be used for improved shoreline access. Access areas shall be counted as part of the 25% non-native area and located to avoid areas of greater sensitivity and habitat value.	
6	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 25% of the reduced setback area. Up to 20 ft. of frontage may be used for improved shoreline access. Access areas shall be counted as part of the 75% non-native area and located to avoid areas of greater sensitivity and habitat value.	5 ft.
7	Installation of biofiltration/infiltration mechanisms such as rain gardens, bioswales, created and/or enhanced wetlands, infiltration facilities, ponds, or other approved LID BMPs that treat the majority of surface water runoff from a site and meet or exceed adopted stormwater requirements. (Note: stormwater ponds serving more than one property should be located outside of shoreline jurisdiction if feasible and in accordance with mitigation sequencing).	5 ft.
8	Installation of at least 500 sq. ft. of “green” roof in accordance with the standards of the LEED Green Building Rating System.	5 ft.
9	Installation of a minimum of 1,000 sq. ft. of pervious material for driveway, parking, patio and/or road construction.	5 ft.
10	Preserving or restoring at least 20% of the total lot area outside of the setback or buffer area as native vegetation. No more than 20% of the total lot area can be lawn.	5 ft.

D. Specific Shoreline Use Policies and Regulations

1. Aquaculture

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Aquaculture is dependent on the use of the water area. When consistent with control of pollution and prevention of damage to the environment, it is a preferred use of the water area. The technology associated with some forms of aquaculture is still in its formative stages and experimental. Thus, this SMP recognizes the necessity of some latitude in the development of this use.

a) Policies

- 1) Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions or significantly conflict with navigation and other water-dependent uses.
- 2) Aquaculture facilities should be designed and located to prevent the spread of disease to native aquatic life, significant ecological impacts caused by new nonnative species, or significant impacts on the shorelines' aesthetic qualities.

b) Regulations

- 1) Aquaculture development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and this SMP to ensure no net loss of ecological function.
- 2) The applicant shall demonstrate that the proposed facility meets the requirements of Policy 2 above.
- 3) Impacts to ecological functions shall be mitigated in accordance with the sequence described in Chapter 3, Section 4(C)3.

2. Boating Facilities

a) Applicability

Boating facilities, including community piers, public or community boat launches and marinas, shall be subject to the policies and regulations of this Section and those for specific types of facilities in Chapter 5, Section C(5). Boating facilities as defined in this SMP do not apply to residential moorage facilities serving four (4) or fewer single-family residences. Policies and regulations for all overwater structures and moorage facilities, including those serving four (4) or fewer single-family residences, are addressed in Chapter 5, Section C(5).

Accessory uses found in boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, restrooms and dry goods.

b) Policies

- 1) Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and, where feasible, enhance degraded and/or scarce shoreline features.
- 2) Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing.
- 3) Boating facilities should be located in areas of low biological productivity as documented in a report prepared by a qualified professional at time of application.
- 4) Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the neighboring area and will not unreasonably impair shoreline views. However, the need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.
- 5) Limits should be put on the size of community docks to address the potential for impacts on neighboring properties.
- 6) Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Non-water-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline setback.

c) Regulations

- 1) Location Standards.
 - a. New boating facilities shall not be permitted in areas where dredging will be required or where impacts to shoreline ecological functions and processes cannot be mitigated.
 - b. New boating facilities shall not significantly affect the rights of navigation on the water of the state.
 - c. Boating facilities shall not be located where their development would reduce the quantity or quality of critical fish and wildlife habitat areas as defined in LMC Section 14A.154.020 (Critical

Areas and Natural Resource Lands Regulations, Ordinance No.362 3(part), 2004) or where significant ecological impacts would occur.

- d. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to protect facilities, users, and watercraft from floods or destructive storms.
- e. Boating facilities shall not be located where it would be incompatible with the need to protect the public health, safety, and welfare.
- f. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.

2) Facility Design.

- a. All boating facilities shall be designed to avoid and minimize impacts. All unavoidable impacts must be mitigated.
- b. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size, and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Boating facilities shall meet all applicable Shoreline Modification regulations in Chapter 5. Community and public moorage facilities shall meet the size and usage requirements established in Chapter 5, Section C(5).

3) Site Design and Operation.

- a. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed, nor made dangerous.
- b. Boating facilities shall provide physical and/or visual public or community access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal, including, but not limited to, physical and visual access to waterbodies, public piers or fishing platforms.
- c. Upland boat storage may be allowed within shoreline jurisdiction in the Urban Park and Shoreline Residential environments, provided impervious surface limitations and other standards are met, mitigation sequencing is followed and impacts can be mitigated to achieve no net loss.
- d. Accessory uses at boating facilities shall be located outside of shoreline jurisdiction where feasible and shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may

include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where necessary to support the water-oriented use.

- e. The applicant shall comply with all state agency policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary or accessory use.
- f. The streets serving the proposed facility must handle the traffic generated by such a facility safely and conveniently.
- g. The facility must be limited to day moorage only. No live-aboards or floating homes are allowed.
- h. Covered moorage is allowed only in the Shoreline Residential environment by a CUP. Boat lift canopies are a permitted use in the Shoreline Residential environment. See Chapter 5, Section (C)(5)(d)(8) and (9) for applicable standards.
- i. The perimeter of parking, upland boat storage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas.
- j. All facilities must have provisions available for cleanup of accidental contaminants and spills
- k. Public access shall be required, pursuant to the requirements and exemptions in the Public Access regulations contained in Chapter 3.

4) Boat Launch.

- a. Location Standards - Boat launches shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Native upland vegetation removal shall be minimized to the greatest extent feasible. All facilities shall be sited and designed per required mitigation sequencing.
- b. Public launch ramps shall be located only on stable shorelines where feasible and where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.
- c. The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
- d. The applicant shall demonstrate that the proposed length of a boat launch is the minimum necessary to launch the intended craft safely. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM, unless the Shoreline Administrator determines that a greater depth is needed for a public boat launch facility.

e. Design Standards.

- i. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
- ii. Preferred launch ramp designs for motorized boats, in order of priority, are:
 - a. Open grid designs with minimum coverage of lake substrate.
 - b. Seasonal ramps that can be removed and stored upland.
 - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
 - d. Standard concrete pads.

3. Commercial Development

a) Applicability

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Uses and activities associated with commercial development that are identified as separate uses in this program include Agriculture, Aquaculture, Mining, Industry, Boating Facilities, Transportation Facilities, and Utilities. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in Chapter 5 in addition to the standards for commercial development established herein.

b) Policies

- 1) Commercial development should be limited in the shoreline area based on the residential and recreational nature of the existing shoreline.
- 2) Water-oriented commercial developments should be preferred over non-water-oriented commercial uses.
- 3) Commercial developments should be encouraged to incorporate LID BMPs where feasible into new and existing projects.

c) Regulations

- 1) New commercial uses shall be prohibited within all shoreline areas except where the underlying zoning permits such uses, and one or more of the criteria identified below are met:

- a. The use is water-oriented;
 - b. The use is an accessory use to a permitted recreational use or facility within the Urban Park or Conservancy environment. Examples include, but are not limited to:
 - i. Concession stands in City Parks,
 - ii. Booths associated with festivals sponsored by the City, and private parties or receptions and banquets, and
 - iii. Boat rentals.
 - c. The use is a home occupation within the Shoreline Residential environment provided they meet the requirements of LMC Sections 18A.70.200 and 18A.70.250 pertaining to Home Occupations.
 - d. The site is physically separated from the shoreline by another property or public right of way.
 - e. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives, such as providing public access and ecological restoration.
 - f. Navigability is severely limited at the proposed site, and the proposed commercial use provides significant public benefit with respect to the SMA's objectives, such as providing public access and ecological restoration; or
 - g. The use is non-water oriented and replaces an existing non-water oriented use in an existing commercial building. For purposes of this regulation, replace means the footprint and general intensity of the commercial uses are the same.
- 2) Water oriented uses shall incorporate design and operational elements that clearly demonstrate that they meet the definition of water dependent, water related or water oriented uses.
 - 3) Commercial uses shall provide public access as required in Chapter 3, Section B(5) and ecological restoration where feasible and shall not negatively impact existing navigation, recreation or public access.
 - 4) All commercial loading and service areas shall be located or screened to minimize adverse impacts, including visual impacts, to the shoreline environment.
 - 5) LID BMPs shall be incorporated into new development where feasible, pursuant to the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.

- 6) Commercial development and accessory uses must conform to the setback and height standards established in Table II.

4. Parking

a) Applicability

Parking is the temporary storage of automobiles or other motorized and non-motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

b) Policies

- 1) Parking in shoreline areas should be minimized
- 2) Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including impacts related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and to result in no loss of ecological functions.
- 3) Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

c) Regulations

- 1) Parking as a primary use is prohibited in shoreline jurisdiction.
- 2) Parking in shoreline areas must directly serve a permitted shoreline use.
- 3) Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.
- 4) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
- 5) Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped to provide an effective “full-screen” within three (3) years of project completion when viewed from adjacent areas within shoreline jurisdiction.

- 6) New and reconstructed parking areas within the Urban Park shoreline environment designation shall utilize LID BMPs where feasible in accordance with the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.

5. Recreational Development

a) Applicability

Recreational uses include passive activities, such as walking, viewing, and fishing. Recreational development also includes facilities for active uses, such as swimming, boating, and other outdoor recreation uses. This section applies to both public and private shoreline recreational facilities (excluding private residences). Commercial shoreline recreational facilities must also meet the requirements for Commercial Development.

b) Policies

- 1) Primary recreational uses in the shoreline jurisdiction should be limited to water-oriented uses. Non-water-oriented recreational facilities may be allowed as an accessory use and in limited circumstances where they do not displace water oriented uses, for example, where visual access is incorporated if feasible and physical access is not possible.
- 2) The coordination of local, state, and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's Comprehensive Park and Recreation Plan.
- 3) Recreational developments should be designed to preserve, enhance, or create scenic views and vistas.
- 4) The use of publicly owned lands for public access and development of recreational opportunities should be encouraged.
- 5) Priority for land acquisition should be given to open space that provides wildlife habitat and offers opportunities for education and interpretation.
- 6) Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
- 7) Links between existing and future shoreline parks, recreation areas, and public access points should be created with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.

- 8) Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
- 9) Public access should not contribute to a net loss of shoreline ecological functions.

c) Regulations

- 1) All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks and limited water enjoyment structures such as open viewing platforms and benches, shall maintain a standard setback from the OHWM per Table II. However, existing structures may be replaced in their current location and configuration to the extent allowed by the Nonconforming Development provisions of Chapter 6, Section F, and state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a setback reduction pursuant to Table II in this Chapter or a shoreline variance.
- 2) Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
- 3) Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery, such as picnicking, hiking and bicycling, shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in shoreline areas.
- 4) All recreational developments shall make adequate provisions for:
 - a. Non-motorized and pedestrian access;
 - b. The prevention of trespass onto adjacent properties, including, but not limited to, landscaping and fencing;
 - c. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
 - d. Signs indicating the publics' right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
 - e. Buffering of such development from adjacent private property or natural areas.
- 5) In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance, or restore desirable shoreline features.

- 6) Swimming areas shall be separated from boat launch areas.
- 7) The construction of swimming facilities, piers, moorages, floats, and launching facilities waterward of the OHWM shall be governed by the regulations relating to overwater structure construction in the Shoreline Modifications Section of this SMP.
- 8) Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
- 9) Recreation developments such as golf courses and playfields that require periodic use of fertilizers, pesticides or other chemicals, or that support high-intensity activities as a primary use, such as sporting events, shall be located outside of shoreline jurisdiction.
- 10) Proposals for new or expanded recreational development shall include provisions for public access to the shoreline, subject to the requirements and exemptions contained in Chapter 3, Subsection B(5)(c).

6. Residential Development

a) Applicability

Residential development means construction of one or more buildings or structures, or subdivision of land to provide a place of abode for human beings. Such development includes multi-family and single-family dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, decks, patios and fences.

Residential development is preferred use under this SMP and is allowed where it can be accommodated without significant shoreline impacts. Residential development is prohibited in the Aquatic environment, and single-family residential development is a conditional use in the Natural, Urban Park, and Conservancy environments. Single-family and multi-family development is further limited by the underlying zoning.

b) Policies

- 1) Residential development should be permitted only where there are adequate provisions for utilities, circulation, and access.
- 2) New development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.
- 3) The City should provide development incentives, including reduced shoreline setbacks, to encourage the protection, enhancement, and restoration of high functioning buffers and natural or semi-natural shorelines.

- 4) Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.
- 5) Residential development should be designed to preserve existing shoreline vegetation, control erosion, protect water quality, and utilize LID BMPs where feasible.
- 6) The City should encourage the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.
- 7) The City should encourage the use of alternative paving products for walkways, driveways, and patios, such as pervious pavers, as a mechanism for reducing impervious surfaces and surface water runoff.
- 8) At a minimum, development should achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

c) Regulations

- 1) Residential development is a preferred use where it can be accommodated without significant impacts to the shoreline and shall be permitted in shoreline jurisdiction subject to the policies and regulations for the specific shoreline environment designation (see Chapter 4, Table II), underlying zoning regulations, and the general regulations in Chapter 3 of this SMP.
- 2) Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
- 3) All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Chapter 4, Table II.
- 4) Nonconforming residential structures that are repaired, modified, replaced or enlarged are subject to the requirements in Chapter 6, Section F(2) (Administration - Nonconforming Use and Development Standards).
- 5) Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences, including setbacks, with the exception of water-oriented accessory structures that comply with the impervious surface limits identified in Table II of this Chapter. Water-oriented structures allowed in the setback include, but are not limited to, boathouses, gazebos, viewing platforms and decks.
- 6) In order to maintain visual access to the waterfront, all fences shall be set back a minimum of fifteen (15) feet from the OHWM.

- 7) To protect views and vistas maximum height limits have been established for each shoreline environment designation as indicated in Chapter 4, Table II.
- 8) The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems and other LID BMPs shall be incorporated into new development where feasible, in accordance with the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.
- 9) LID stormwater facilities, such as swales and infiltration areas, may be located within the required shoreline setback area at the discretion of the Shoreline Administrator if no mature trees are removed.
- 10) Residential development, including land subdivision, shall result in no net loss of shoreline ecological functions. This includes meeting the no net loss standard at full build out of a subdivision or other development. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
- 11) For the purposes of this section and WAC 173-27-040(2)(g), the following shall be considered a "normal appurtenance" to a single-family residence. Not all normal appurtenances are considered water oriented:
 - a. Garages
 - b. Decks
 - c. Driveways and parking areas
 - d. Utilities
 - e. Fences
 - f. Landscaping
 - g. Pathways, walkways and stairways
 - h. Swimming pool and spa
 - i. Flagpole
 - j. Shed up to two hundred (200) square feet
 - k. Children's play equipment

- l. Fire Pit
- m. Sports court
- n. Installation of a septic tank, drain field and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve the placement of fill in any wetland or waterward of the OHWM (when permitted by Tacoma Pierce County Health Department, Pierce County Sewer Utility, and City policies and regulations).

7. Signs

a) Applicability

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

b) Policies

- 1) Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
- 2) Signs should not block or otherwise interfere with visual access to the water or shorelines.

c) Regulations

- 1) Signs shall comply with the City's sign regulations found in LMC Section 18A.50.600 - Sign Regulations in addition to the sign regulations in the SMP.
- 2) Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
- 3) All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
- 4) Temporary signs shall be removed subject to the requirements of LMC Section 18A.50.665 - Signs for Temporary Display. Examples of temporary signs can include real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.

- 5) Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two (2) years of the SMP's effective date.
- 6) The following types of signs may be allowed in all shoreline environment designations:
 - a. Water navigational signs and highway signs necessary for operation, safety, and direction.
 - b. Public information signs directly relating to a shoreline use or activity.
 - c. Off-premise, freestanding signs for community identification, information, or directional purposes.
 - d. Site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
- 7) The following signs are prohibited:
 - a. Off-premises freestanding outdoor advertising signs and billboards.
 - b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.
 - c. Signs placed on trees or other natural features.
 - d. Commercial signs for products, services, or facilities located off-site.

8. Trails

a) Applicability

Trails serve as both recreational facilities and transportation facilities. Trails are classified into two types: minor trails and major trails. Major trails are paved and they allow for simultaneous use by both pedestrians and bicycles. Major trails also frequently provide connections between local points of interest and a larger regional access network. Due to their use of pavement and the necessity of complying with ADA design requirements, major trails are generally not appropriate for locations with steep terrain or environmentally sensitive areas. Minor trails, on the other hand, are designed for local access and usually have less improved right-of-way than major trails. Minor trails are typically unpaved and surfaced with either gravel or bare dirt, although they may have sections where pervious pavement is used. Due to their narrow right-of-way, minor trails usually do not support simultaneous use by pedestrians and bicycles.

b) Policies

- 1) Normal operation and normal maintenance and repair of all trails in shoreline jurisdiction should be exempt from the Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 Section C(1).
- 2) Trail location, design, and construction should adhere to mitigation sequencing and no net loss requirements.

c) Regulations

- 1) Unless approved as a major trail, trails shall be no greater than ten (10) feet in total improved width, which includes eight (8) feet of surface and one (1) foot shoulders. Not including landscaping, no more than eight (8) feet of improved surface is preferable in most cases.
- 2) Major trails shall be the minimum width necessary to accommodate the proposed use safely and in no case shall they be more than eighteen (18) feet in total improved width, which includes fourteen (14) feet of surfaced trail and two (2) foot shoulders.
- 3) Gravel, woodchips, or pervious pavement shall be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic, or functionality concerns.
- 4) Trails shall be placed at least twenty-five (25) feet from the OHWM, except for bridges, limited spurs to physical access points and overlooks comprising no more than ten percent (10%) of the overall lineal length of the proposed trail. The Shoreline Administrator shall use the variance process and criteria for evaluating a proposed reduction in the twenty-five (25) foot setback for trails parallel to the water, which exceed ten percent (10%) of the total linear length of the proposed trail.
- 5) Landscaping shall be native and drought tolerant or site appropriate.
- 6) Enhancement of shoreline functions, including native plantings, shall be incorporated into trail designs as mitigation for development impacts where necessary and where a clear benefit can be demonstrated.
- 7) Trails shall be subject to other specific conditions as described in the applicable trail or parks plan.

9. Transportation Facilities

a) Applicability

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, heliports, and other related facilities.

In the City, transportation facilities account for a limited percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

b) Policies

- 1) Normal operation, and normal maintenance and repair of all transportation facilities in the shoreline jurisdiction should be exempt from Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 Section C(1).
- 2) New road construction in the shoreline jurisdiction should be minimized, and such construction outside of the Shoreline Residential environment should be allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
- 3) Expansion of existing roadways in the shoreline jurisdiction should be allowed if such facilities are found to be in the public interest, as determined jointly by the City Engineer and Shoreline Administrator.
- 4) Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities, and motorized and non-motorized forms of transportation should be encouraged.

c) Regulations

- 1) New road construction in shoreline jurisdiction shall be minimized and allowed only when related to, and necessary for, the support of permitted shoreline activities or found to be within the public interest.
- 2) New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacts (e.g. perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to DFW Fish Passage Guidelines and accommodate the flow of water, sediment, and woody debris during the 100-year return storm event. Bridge abutments shall be located outside of floodplains and CMZs if feasible.

- 3) Transportation facility development shall result in no net loss of shoreline ecological functions and shall not affect existing or planned water dependent uses. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) New roads and expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
 - a. No alternative route is feasible; and
 - b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment.
- 5) Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
- 6) Developers of roads must be able to demonstrate that efforts have been made to coordinate with existing land use plans including the SMP and the City's Comprehensive Plan.
- 7) All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.
- 8) Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
- 9) Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.
- 10) The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

10. Utilities (Primary)

a) Applicability

Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, communications and the like. Utilities in this SMP are divided into primary and secondary based on type and scale. The provisions of this section apply to primary utility uses and activities such as solid waste handling and disposal, regional water transmission lines and storage facilities, sewage treatment facilities and interceptors, water or sewer pump stations, power generating or high voltage transmission facilities, gas pipelines and storage facilities and regional stormwater treatment facilities.

b) Policies

- 1) New primary utilities should be located outside of shoreline jurisdiction unless they are water oriented, no other feasible option exists, and should utilize existing transportation and utility sites, rights-of-way and corridors where allowed, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
- 2) Solid waste disposal activities and facilities should be prohibited in shoreline areas.
- 3) Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
- 4) Primary utility facilities and corridors should be located to protect scenic views if they must be placed in a shoreline area, preferably underground or designed to minimize impacts on the aesthetic qualities of the shoreline area if possible.

c) Regulations

- 1) Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option exists.
- 2) Primary utilities shall be located landward of OHWM unless such location is not feasible or would result in potentially greater environmental impacts.
- 3) Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility design, location, development, and maintenance shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) Through coordination with local government agencies, utility development shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.
- 5) Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
- 6) Solid waste disposal sites and facilities are prohibited in all shoreline environment designations.
- 7) Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

- 8) To the greatest extent feasible, primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense “full screen,” where feasible.
- 9) Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and, upon project completion; any disturbed areas shall be restored to their pre-project condition.
- 10) The City shall hold public meetings prior to the issuance of a substantial development permit for a major primary utility project in accordance with the administrative procedures outlined in this SMP to allow for the greatest amount of public input to help guide utility-related decisions.

11. Utilities (Secondary)

a) Applicability

Secondary utilities are typically distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water mains and distribution lines, sewer collectors and side sewer stubs, stormwater collection and conveyance, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern all types of development and have the potential of affecting the ecological condition and visual quality of the shoreline and its waters. On-site accessory utilities that only serve the permitted shoreline use (e.g. sewer connection) are considered part of the primary use. The Shoreline Administrator shall have the authority to determine when a facility is a Primary or Secondary Utility based on the guidance provided in the SMP.

b) Policies

- 1) Utilities necessary to serve shoreline uses should be properly sited and installed to protect the shoreline and water from contamination and degradation.
- 2) Secondary utility facilities and right-of-ways should be located outside of the shoreline area to the extent possible. Utility lines should be placed underground if possible when a shoreline location is required.
- 3) Utility facilities should be designed and located in a manner, which preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

c) Regulations

- 1) Through coordination with local government agencies, utility developments shall provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.

- 2) In shoreline areas, secondary utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way and existing corridors whenever possible.
- 3) Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the Shoreline Administrator, and maintenance care. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
- 5) The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.
- 6) The City shall maintain, enhance, and restore public natural drainage systems in accordance with all applicable policies and regulations to protect water quality, reduce flooding, reduce public costs, and prevent associated environmental degradation for a no net loss of shoreline ecological functions.
- 7) New utility lines including electricity, communications, and fuel lines shall be located underground, where feasible. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements where feasible.
- 8) Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
- 9) Proposals for new utility corridors shall demonstrate the infeasibility of existing routes.

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Chapter 5 Shoreline Modification Provisions

A. Introduction and Applicability

Shoreline modifications are those structures and actions that modify the physical configuration or qualities of the shoreline area, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to, structures such as bulkheads, docks, piers, and floats, and actions such as clearing, grading and dredging. Shoreline modifications are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modifications.

Shoreline modification policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the SMA. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

This chapter has been divided into four sections: Shoreline Stabilization, Dredging and Disposal, Fill, and Overwater Structures and Launching Facilities.

B. Table of Permitted Shoreline Modifications

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environment designations. See the standards following the table for a full explanation of structures and actions and required conditions.

Table IV. Permitted Shoreline Modifications

<p>P = Permitted Use</p> <p>C = May be Permitted as a Conditional Use</p> <p>X = Prohibited, Not Eligible for a Variance or CUP</p> <p>N/A = Not Applicable</p> <p>SHORELINE MODIFICATIONS</p>	Shoreline Residential	Urban - Stream Protection	Urban Park	Conservancy	Natural	Aquatic
SHORELINE STABILIZATION						
Beach Restoration and Enhancement	P	X	P	X	C	See adjacent upland shoreline environment designation
Soil Bio-engineering	P	P	P	P	P	
Structural Stabilization	P	X	C	X	X	
Breakwaters, Jetties, and Groins	X	X	X	X	X	
Clearing and Grading	P	P ¹	P ¹	P ¹	C ¹	
Dredging and Disposal	X	X	X	X	X	
Dredging ²	C	C	C	C	C	
FILL						
Fill Upland of OHWM	P	P ¹	P ¹	C ¹	X	
Fill Waterward of OHWM ²	C	C	C	X	C	
OVERWATER AND IN-WATER STRUCTURES⁴						
Recreational Float	P	X	P	X	X	
Overwater Boathouse ³	X	X	X	X	X	
Single / Joint Pier and Dock	P	X	P	X	X	
Moorage Piles and Mooring Buoys	P	X	P	X	X	
Private Community Dock	P	X	P	X	X	
Public Pier/Dock	C	X	P	X	X	
Boat Launch	C	X	C	X	X	
Launching Rails	C	X	X	X	X	
Boat Lifts	P	X	X	X	X	
Boat Lift Canopies	P	X	X	X	X	
Moorage Covers (Open Sides, Structural Roof)	C	X	X	X	X	
In-Stream Structures (e.g. Dams and Weirs)	C	C	C	C	C	

¹ The critical area provisions of LMC Title 14A as incorporated into this SMP shall apply within designated critical areas and buffers (such as streams and wetlands). Critical area requirements may further restrict this activity and other development activities in portions of the shoreline management area. Please see LMC Title 14A and Chapter 3, Section (B)(3) for more information.

² Dredging and fill waterward of the OHWM occur in the Aquatic shoreline environment designation by definition, but are regulated based on the adjacent upland shoreline environment designation. In the shoreline environment designations where they are allowed, fill waterward of the OHWM and dredging are only permitted in limited situations. See Chapter 5, Section C(3) and (4) for additional restrictions and requirements. Small scale beach restoration utilizing up to or less than twenty-five (25) cubic yards of material is permitted waterward of the OHWM without a CUP. See Chapter 5, Section C(4)(c)(2).

³ Boathouses landward of the OHWM no greater than twelve (12) feet in height are allowed in shoreline setbacks subject to impervious surface limits and other restrictions in this SMP.

⁴ See permit requirements and exemptions per Section C.5 (b) of Chapter 5 and Chapter 6.

C. Policies and Regulations

1. General Policies and Regulations

a) Applicability

The following provisions apply to all shoreline modifications whether such proposal addresses a single property or multiple properties. Additional requirements as contained in other Chapters of this SMP apply. Where a general standard, environmental standard or use standard conflicts with the provisions contained in this chapter, the more restrictive shall apply.

b) Policies

- 1) The adverse effects of shoreline modifications should be reduced, as much as possible, and shoreline modifications should be limited in number and extent.
- 2) The Shoreline Administrator should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function by preventing unnecessary shoreline modifications by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.

c) Regulations

- 1) All shoreline modifications must be in support of an authorized shoreline use or provide for human health and safety.
- 2) All shoreline development shall be located and designed to prevent or minimize the need for shoreline modifications.
- 3) In reviewing shoreline modification permits, the Shoreline Administrator shall require steps to avoid then reduce significant ecological impacts according to the mitigation sequence in Chapter 3, Section B.4.C.3.
- 4) The Shoreline Administrator shall base all shoreline modification decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.

2. Shoreline Stabilization (Including Bulkheads)

a) Applicability

Shoreline stabilization includes structures and actions taken to address erosion impacts caused by natural processes, such as currents, floods, and waves. Examples of stabilization methods include beach restoration and enhancement, soil bioengineering, and bulkheads. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as anchored logs, limited rock placement in conjunction with other components, bioengineered vegetation measures, and beach enhancement. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and planning and regulatory measures.

Generally, the harder the construction measure, the greater the impact on shoreline processes, such as sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize and promote the benefits of these natural occurrences. Erosion does not occur without accretion (deposition and accumulation) of material eroded, such as formation of a beach or a sandbar. Likewise, accretion cannot occur unless material has been eroded.

A key regulatory distinction in this SMP is made between new stabilization measures and the replacement of existing stabilization measures. New stabilization measures include the enlargement of existing structures. Some of these techniques are currently being used in City as described below, or they are techniques that could be used to address local shoreline issues.

General policies and regulations addressing shoreline stabilization methods are presented below, followed by discussion, policies and regulations of the individual stabilization methods.

Beach Restoration or Enhancement

Beach enhancement is the alteration of exposed and submerged shorelines for the purpose of stabilization, recreational enhancement, and/or aquatic habitat creation or restoration using native or similar material. The materials used are dependent on the intended use. For recreational purposes, various grades of clean sand or pea gravel are often used to create a beach above the OHWM. Restoration or re-creation of a shore feature may require a rock and gravel matrix and/or other materials appropriate for the intended use.

Soil Bioengineering

Soil bioengineering is the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of root systems, or other living plant material; fabric; and limited rock toe protection, where appropriate. Soil bioengineering projects often include fisheries habitat enhancement

measures, such as anchored logs or root wads, in project design. Soil bioengineering techniques may be applied to shoreline areas and the upland areas away from the immediate shoreline.

The use of soil bioengineering as a shoreline stabilization technique is a viable and proven alternative to riprap, concrete and other structural solutions. It provides habitat while maintaining and preserving the shoreline's natural character. Soil bioengineering is the preferred "best practices" choice when considering shoreline stabilization.

Bulkheads

Bulkheads are shoreline structures, either sloped or vertical, usually constructed parallel to the shore close to or at the OHWM. The primary purpose is to contain and prevent the loss of soil caused by erosion or wave action.

Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Uses and activities related to bulkheads, which are identified as separate use activities in this program, such as Fill and Residential Development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this section.

Groins

Groins are barrier-type structures of rock, wooden piling, or other materials constructed across the beach itself and extending into the water with the intent to obstruct sand and sediment carried by the littoral drift action along shorelines. Groins have limited applicability in the City's shoreline jurisdiction because of the relatively small size of the jurisdictional lakes.

b) Policies

- 1) Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines.
- 2) Hard structural shoreline stabilization measures should only be used when softer, more natural, flexible, or non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

- a. No action (allow the shoreline to retreat naturally), increase buffers, and relocate structures.
 - b. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
 - c. Rigid works constructed of artificial materials such as riprap or concrete.
- 3) Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development would not require shore stabilization.
 - 4) New or expanded structural shoreline stabilization should only be permitted where necessary to protect an existing primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, and where it would not cause a net loss of shoreline ecological functions and processes.
 - 5) New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration, or remediation objectives.
 - 6) Shoreline stabilization should not be permitted when it interferes with public access, or other appropriate shoreline uses including, but not limited to, navigation or private recreation.
 - 7) Non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.
 - 8) Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design, and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shore stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.
 - 9) Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.
 - 10) New development that would require shoreline stabilization, which causes significant impacts to adjacent properties, should not be allowed.

- 11) Explore a range of solutions to reduce the amount of bulkheads and hard shoreline armoring over time around American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, and Waughop Lake and restore natural bank conditions. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features should be the preferred method where feasible.

c) Regulations

Shoreline Stabilization - General Requirements

- 1) The standards in this section apply to all developments and uses in shoreline jurisdiction.
- 2) Except as otherwise provided in these regulations, structural shoreline stabilization to protect primary structures from damage from erosion shall be allowed only after it is demonstrated through a geotechnical report that non-structural solutions would not provide sufficient protection to existing structures. If structural stabilization is necessary to protect structures, then the feasibility of soft structural measures shall be evaluated prior to consideration of hard structural measures. Soft structural stabilization measures shall be used unless the Shoreline Administrator determines that it is not feasible based on the geotechnical report required in this section and provided by the applicant.
- 3) The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion, urgency, alternative solutions, and other pertinent factors. Hard armoring shall not be authorized except where the geotechnical 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 measures or where waiting until the need is that immediate would foreclose the opportunity to use measures that would avoid impacts on ecological functions. Where a geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, soft structural stabilization measures may be authorized.
- 4) Soft shoreline stabilization may include the use of gravels, cobbles, limited use of boulders in conjunction with other measures, and logs, as well as vegetation.
- 5) During construction or repair work on a shoreline stabilization measure, areas of temporary disturbance within the shoreline setback shall be restored as quickly as feasible to their pre-disturbance condition or better to avoid impacts to the ecological function of the shoreline.

Shoreline Stabilization - New Development

- 1) New development, including land subdivision, shall, to the extent feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization and ensure no net loss of ecological function at full build-out. A geotechnical analysis of the site and shoreline characteristics shall be required to assure that lots created through subdivision will not require shoreline stabilization

in order for reasonable development to occur. New non-water dependent development that would require shoreline stabilization and cause significant adverse impacts to adjacent or down-current properties is prohibited.

- 2) New development, including single-family residences, that requires new structural shoreline stabilization shall be prohibited unless all of the conditions below are met:
 - a. The need to protect the development from damage due to erosion caused by natural processes, such as currents and waves is demonstrated through a geotechnical report;
 - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage;
 - c. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, LID BMPs, or installing on-site drainage improvements, are not feasible or not sufficient; and
 - d. The stabilization structure will not result in a net loss of shoreline ecological functions.
- 3) New development on steep or unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis prepared by a geotechnical engineer or related professional licensed and in good standing in the State of Washington.

Shoreline Stabilization - New or Expanded Measures

- 1) New structural stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary and shall be permitted only when it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological function restoration projects or hazardous substance remediation projects from erosion, and that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

Shoreline Stabilization - Replacement and Repair

- 1) An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is a demonstrated need to protect legally established principal uses or existing structures from erosion caused by currents or waves and a nonstructural measure is not feasible.
- 2) Shoreline stabilization solutions developed to replace existing shoreline stabilization shall be placed along the same alignment as, or landward of, the shoreline stabilization being replaced, except as noted below.

- 3) Where existing hard structural stabilization is replaced by soft structural or non-structural shoreline stabilization using bioengineering techniques and results in a documented improvement of shoreline functions, such stabilization may be allowed waterward of the OHWM subject to state and federal approvals. Such stabilization does not constitute fill for the purpose of this SMP.
- 4) A major repair or replacement of a hard shoreline stabilization structure shall be allowed without a demonstration of need when the existing primary structure is ten (10) feet or less from the OHWM. All other major repair proposals must include a written narrative prepared by a qualified geotechnical engineer that provides a demonstration of need. A major repair shall be defined as:
 - a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away, or otherwise demonstrated loss of structural integrity, or in which the repair work involves modification of the toe rock or footing, and the repair is fifty percent (50%) or greater than the linear length of the shoreline stabilization measure; or
 - b. A repair to more than seventy-five percent (75%) of the linear length of the existing hard structural stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
- 5) Minor repairs are repairs that do not meet the threshold established in regulation 4 above. Such repairs shall be allowed without a demonstration of need.

General Shoreline Stabilization - Design Requirements

- 1) Shoreline stabilization and modification projects shall avoid adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions.
- 2) Shoreline stabilization shall not be used to create new or newly usable land.
- 3) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.
- 4) Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and not interfere with visual access to the water substantially.
- 5) Shoreline stabilization shall be designed so as not to not cause a significant impact to adjacent properties, including the need for shoreline stabilization elsewhere.
- 6) Professional design (as approved by the Shoreline Administrator) of all shoreline stabilization is required. All shoreline modifications shall be in support of a permitted shoreline use that is in

conformance with the provisions of this SMP unless it can be demonstrated that such activities are necessary and in the public interest.

- 7) All shoreline modification activities must comply with all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.
- 8) Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features shall be considered when replacing existing and constructing new shoreline stabilization solutions.
- 9) Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

Beach Restoration or Enhancement

- 1) Beach enhancement along American Lake, Gravelly Lake, Lake Louise and Lake Steilacoom may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt littoral processes, redirect waves, current, or sediment to other shorelines, or adversely affect adjacent properties or habitat and all other standards of the SMP are followed.
- 2) Beach enhancement for the purpose of shoreline stabilization is limited to the minimum necessary. Proposals exceeding the threshold outlined in Section 4(c)(2) shall be subject to the requirements for shoreline fill in that section.
- 3) Natural beach restoration/enhancement activities shall not:
 - a. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
 - b. Disturb significant amounts of valuable shallow water fish/wildlife habitat without appropriate mitigation of the impacts.
- 4) The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach sediment, but large enough to resist normal current, wake, or wave action at the site.
- 5) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk or profile (but not as much as to create additional dry land).

- 6) Beach enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected by it, as well as where littoral drift of the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

Soil Bioengineering

- 1) All soil bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.
- 2) Except where more restrictive or specific Critical Area and Resource Lands Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred percent (100%) reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to reestablish vegetation adequately shall be replanted by the applicant with approved plant materials until the plantings are viable. The Shoreline Administrator may establish additional performance standards in permit conditions based on the project site and nature of the proposal.
- 3) Any bioengineered bank stabilization and replanted areas as required by Regulation 2 above shall be maintained in the form of a buffer zone for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of plantings.
- 4) All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

Breakwaters

- 1) Breakwaters, jetties, and groins shall not be permitted.

Bulkheads

- 1) Bulkhead design and development shall conform to all other applicable local, state, and federal agency regulations.
- 2) On shorelines where no other adjacent bulkheads, the bulkhead construction shall tie in with the contours of the adjoining shorelines, as feasible, to avoid causing erosion of the adjoining properties.
- 3) Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing OHWM such that no net loss of lake occurs and the design

complies with all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.

- 4) Replacement bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure.
- 5) When a bulkhead is required at a public access site, provisions for safe access to the water shall be incorporated into bulkhead design.
- 6) Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of a bulkhead.
- 7) Fill behind bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be subject to the policies and regulations in this SMP pertaining to fill activities.

3. Dredging and Disposal

a) Applicability

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. In a lake setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

Of all activities on shorelines, dredging poses one of the greatest threats to water quality and aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment by temporarily reducing water clarity from suspended sediments, causing aquatic plant and animal loss by direct removal or from the sedimentation of suspended materials, altering the nutrient and oxygen levels of the water column, and suspending toxic materials from the sediments into the water column.

b) Policies

- 1) In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values. Proposals that include dredging should provide mitigation to achieve no net loss of shoreline ecological functions.

- 2) When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
- 3) Dredging waterward of the OHWM for the primary purpose of obtaining fill should not be allowed, except as part of a restoration or environmental cleanup project.
- 4) The City may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.
- 5) Dredging or excavation of gravel for the purposes of flood management should be consistent with adopted flood hazard reduction plans and should result in no net loss of ecological function.

c) Regulations

- 1) Dredging and disposal of dredge material shall avoid and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
- 2) New development siting and design shall avoid the need for new and maintenance dredging.
- 3) Dredging may be permitted as a conditional use activity only:
 - a. When necessary to support a water-dependent use; or
 - b. For expansion or alteration of public utility facilities; or
 - c. As part of mitigation actions, environmental restoration, a comprehensive flood control program or habitat enhancement projects.
- 4) In all cases where dredging is allowed, dredging may be permitted as a conditional use:
 - a. When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired; and
 - b. When other solutions would result in greater environmental impact; and
 - c. When applicable permits of other local, state, federal have been obtained.
- 5) Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth, and width.
- 6) Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration

effort approved by a shoreline CUP. When dredging is allowed for fill materials, placement of fill must be waterward of the OHWM.

- 7) Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of shoreline ecological functions.
- 8) Dredging material, which will not subsequently cause violation of state Water Quality Standards, may be used in permitted landfill projects.
- 9) Excavation on beaches below the OHWM in lands covered by water constitutes dredging and shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavations on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.
- 10) Dredging shall be timed so that it does not interfere with aquatic life.
- 11) Depositing dredge materials in all water areas shall be prohibited, except where authorized in Regulation 6 above.
- 12) Disposal of dredged material on shorelands or wetlands within a CMZ shall be prohibited.
- 13) Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
- 14) Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.
- 15) Dredging or excavation of gravel for the flood management shall be consistent with an adopted flood hazard reduction plan per the requirements of WAC 173-26-221(3)(c). Such dredging or excavation shall only be approved after a biological study demonstrates that the project would have a long-term benefit to flood hazard reduction, is part of a comprehensive flood management solution, and would not result in a net loss of ecological function.

4. Fill

a) Applicability

Fill is the placement 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.

Fill is usually considered in locations where the water is shallow and rooted vegetation often occurs. In their natural condition, these areas provide valuable habitat for fish and wildlife feeding, breeding, and shelter. Biologically, these areas tend to be highly productive portions of the lake. For these reasons, governmental agencies and scientific experts have generally sought to prohibit or restrict fill.

b) Policies

- 1) Shoreline fill waterward of the OHWM should be permitted as a conditional use in all shoreline environment designations, and only when tied to a specific development proposal that is permitted by the SMP.
- 2) Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.
- 3) In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the SMA and this SMP.
- 4) Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part of an interagency clean-up plan, disposal of dredged sediments in accordance with the Washington State Department of Natural Resources (DNR) rules, expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and for mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
- 5) Shoreline fills should be designed and located so that there will be no net loss of existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.
- 6) The fill perimeter should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.

c) Regulations

- 1) Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.
- 2) Fills waterward of the OHWM (not including small scale beach restoration that does not exceed twenty-five (25) cubic yards) shall require a CUP and shall be restricted to the minimum necessary to:

- a. Support water-dependent uses;
 - b. Provide public access;
 - c. Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan;
 - d. Allow the disposal of dredged sediments in accordance with DNR rules;
 - e. Provide for the expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible; and
 - f. Accomplish mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
- 3) Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
 - 4) All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.
 - 5) Fill shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
 - b. Adversely alter natural drainage and circulation patterns, or significantly reduce floodwater-holding capabilities.
 - 6) No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted within the American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom or Waughop Lake shoreline areas.
 - 7) Any placement or removal of materials landward of the OHWM shall comply with the Vegetation Conservation and Critical Areas provisions of this SMP.
 - 8) Fill for the purpose of raising the average grade level is prohibited.

5. Overwater Structures and Launching Facilities

a) Applicability

Piers and docks are structures that abut the shoreline and often used as a landing or moorage place for watercraft. Piers are built on fixed platforms supported by piles above the water, while docks float upon the water. Some piers may terminate in a float section that is connected by a ramp.

Recreational floats are independent anchored offshore platforms, used for water-dependent recreational activities such as swimming and diving.

Boat launches include graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

All of these types of facilities have positive and negative environmental aspects. Floating docks generally have less of a visual impact than piers on pilings. However, in the nearshore, docks can interrupt littoral drift of sediments and other suspended materials, and significantly shade the aquatic environment throughout their length. Pile piers can provide diverse habitat for both desirable and undesirable aquatic life. Excavated moorage involves dredging and disturbs bottom sediments and aquatic life. Docks and piers alike create impediments to boat traffic and fish travel. Boat launches impact soils and vegetation, both upland and aquatic. Construction of these facilities requires regulation to protect navigation, to protect shoreline aesthetics, and to maintain the useable water surface and aquatic lands for life forms characteristic and important to those areas.

b) Exemptions

Construction of dock structures for the private noncommercial use of the owner, lessee, or contract purchaser of single- and multi-family residences are exempt from the requirement for a Substantial Development Permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(2)(h). A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if the fair market value of the dock does not exceed (I) twenty thousand dollars (\$20,000) for docks that are constructed to replace existing docks and are of equal or lesser square footage that the existing dock being replaced; or (II) ten thousand dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five (5) years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (I) or (II) above, the subsequent construction shall be considered a substantial development. All dollar thresholds will be adjusted for inflation by the State Office of Financial Management every five (5) years, beginning July 1, 2018, based upon changes in the consumer price index during that time period, and this change is hereby incorporated by reference.

The City will review all development proposals for overwater structures to determine if:

- 1) The proposal is or is not exempt from the requirement for a Substantial Development Permit;
- 2) The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated such that there is no net loss of shoreline ecological functions; and
- 3) The proposal is consistent with the intent, policies, and regulations of the SMA, the SMP Guidelines, and this SMP.

c) General Policies

- 1) New piers and docks should be allowed only for public access and water-dependent uses.
- 2) New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
- 3) Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by pier and dock construction.
- 4) The further proliferation of single-purpose, single-owner piers, and docks should be discouraged. Preference should be given to the shared use piers in shoreline areas.
- 5) Preference should be given to fixed-pile piers elevated above the OHWM. Floating docks should be allowed if the applicant can demonstrate why a fixed pile pier is not feasible or will result in greater impacts.
- 6) Recreational floats should be allowed where they are intended to support public or private recreational uses, or in lieu of fixed piers adjacent to residential land uses.
- 7) New overwater boathouses are prohibited and new moorage covers should not be allowed, except through a CUP in the Shoreline Residential environment.
- 8) Overwater structures, including piers, should only be authorized after consideration of:
 - a. The effect such structures have on wildlife and aquatic life, water quality, scenic and aesthetic values, environmentally sensitive resources, submerged lands, and submerged vegetation.
 - b. The effect such structures have on water circulation, recreational boating, sediment movement and littoral drift and shoreline access.
- 9) Overwater structures and mooring buoys should be designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.
- 10) The proposed size of the structure and intensity of use or uses of any overwater structure should be compatible with the surrounding environment and land and water uses.
- 11) Lighting facilities should be limited to the minimum extent necessary to locate the pier or dock at night.

d) Regulations - Docks, Piers and Moorage Structures

- 1) All new overwater structures, including modifications and/or additions, must comply with all regulations contained in this SMP and all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.
- 2) Mitigation shall be provided for all reconstructed, repaired, or modified overwater structures to ensure no net loss of ecological function.
- 3) Fixed pile piers elevated at least two (2) feet above the water surface shall be preferred over floating docks. Floating docks shall be allowed if floating elements are not located within the first twenty (20) feet of the shoreline, measured waterward of the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible and an alternative design would result in less ecological impact.
- 4) New piers and docks shall be allowed only for public access and water-dependent use, which includes a structure associated with a single-family residence that is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in this section. Piers and docks of the minimum size necessary to accommodate the proposed water dependent use may be permitted accessory to a development provided:
 - a. No more than one (1) pier/dock for each single-family residence is permitted. Up to one (1) buoy is allowed per dwelling unit in lieu of a dock.
 - b. No more than one (1) pier, dock or other moorage structure is allowed for a water dependent commercial use or a multi-family development on a single lot or contiguous ownership with the required minimum lot width.
- 5) On lots that have less than the minimum lot width for an overwater structure, as required in Table V, joint-use piers/docks shall be required, except when lots on either side of the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may the lot with less than the required minimum lot width be permitted an individual pier.
- 6) New piers and docks that are not accessory to single-family residences shall be permitted only when intended for public use or when the applicant demonstrates that a specific need exists to support the intended water-dependent use.
- 7) New residential development of more than two (2) dwellings shall provide a joint use or community moorage structure, rather than individual piers or docks.

- 8) New moorage covers in the Shoreline Residential environment are permitted by a CUP, if the proposal meets all of the following criteria:
- a. The applicant demonstrates that a joint use or community moorage structure is not feasible;
 - b. The applicant demonstrates that the moorage cover is the minimum size necessary to provide for the water dependent use;
 - c. The overwater structure does not create any potential adverse impacts to public safety;
 - d. Navigation rights are not significantly impacted;
 - e. The overwater structure does not cause environmental impacts that cannot be sufficiently mitigated;
 - f. The covered moorage is placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for docks and piers established in this Section;
 - g. There is only one (1) covered moorage per moorage facility, including joint use piers; and
 - h. The overwater structure complies with all other conditional use criteria in WAC 173-27-160 as outlined in Chapter 6 of this SMP.
- 9) New boat lifts and boat lift canopies are permitted as long as the following requirements are met:
- a. Boatlifts shall be placed as far waterward of the OHWM as feasible and safe, within the limits of the dimension standards for piers and docks.
 - b. Bottom of a boat lift canopy shall be elevated above the boat lift to the maximum extent feasible, the lowest edge of the canopy must be at least four (4) feet above the water surface, and the top of the canopy must not extend more than seven (7) feet above an associated pier.
 - c. One boat lift and boat lift canopy and up to two (2) jet ski lifts per dwelling unit.
 - d. The lift does not require the placement of pilings or permanent structures.
 - e. A maximum of two (2) cubic yards of clean rock fill or pre-cast concrete blocks are permitted to anchor the boat lift if the substrate prevents the use of anchoring devices.
 - f. No hydraulic fluid other than water shall be used in the boat lift system; backflow protection may be required.

- 10) Proposed overwater structures that do not comply with the dimensional standards in Table V may only be approved if they obtain a variance. Provided that, pursuant to WAC 173-27-040 (2)(b), any legally existing nonconforming pier or dock may be repaired or restored (replacement may be authorized as repair) to its original pre-existing size, dimension, configuration and location without the need for a variance, provided such activity meets the definition of normal maintenance and repair. Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.
- 11) All float tubs shall be fully encapsulated.
- 12) Floating docks are required to be designed to not ground during low water conditions.
- 13) All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.
- 14) Wooden components that will be in contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Structures shall be made out of materials that have been approved by applicable state and federal agencies.
- 15) Non-water dependent elements and uses, such as decks and gazebos built on piers or docks, are not allowed.

Table V. Dimensional Standards for Overwater Structures

Standard	Dock or Float	Pier	Moorage Pile or Buoy
Height above OHWM ¹	N/A	2 ft.	N/A
Maximum Waterward Distance for all Single Use and Joint Use Moorage Structures or Floats ²	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following: Lake Louise: 40 ft. All other lakes: 80 ft.	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following: Lake Louise: 40 ft. All Other lakes: 80 ft.	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following: Lake Louise: 40 ft. All Other lakes: 80 ft.
Maximum Waterward Distance for Community Docks	150 ft.	150 ft.	N/A
Setback from Extension of Side Yard Lot Lines	10 ft.	10 ft.	10 ft.
Maximum Surface Area ⁴	550 sq. ft. (single owner) 640 sq. ft. (2 owners) 100 sq. ft. for each additional owner over 2 up to a maximum size of 2,000 sq. ft. Please note that all docks and piers must also meet water frontage standards	550 sq. ft. (single owner) 700 sq. ft. (2 owners) 120 sq. ft. for each additional owner over 2 up to a maximum size of 2,000 sq. ft. Please note that all docks and piers and docks must also meet water frontage standards	N/A
Location of Ells, Fingers and Deck Platforms, or Freestanding Buoy or Moorage Pile ³	No closer than 20 ft. waterward of the OHWM. Within 20 ft. of the OHWM, only the access ramp portion of dock is allowed.	No closer than 20 ft. waterward of the OHWM. Within 20 ft. of the OHWM, only the access ramp portion of dock is allowed.	No closer than 20 ft. waterward of the OHWM and moorage piles may not be located farther away than the end of the pier of dock
Minimum Water Frontage Required - Single-Family	50 ft.	50 ft.	None

Standard	Dock or Float	Pier	Moorage Pile or Buoy
Private Joint Use or Community Docks - Intensity of Use (Number of Slips)	One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft.	One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft.	N/A

¹ During the course of the normal fluctuations of the elevation of the water body, No portion of a deck of a pier shall protrude more than six (6) feet above the water surface.

² The proposed length must be the minimum necessary to support the intended use. The total dock length includes approach ramp and floating element(s). If eleven (11) foot average water depth is reached within twenty (20) feet of the approach ramp for a dock, a floating element will be permitted, not to exceed the maximum length standard. A dock or pier may exceed the maximum length with a shoreline variance, provided a report prepared by a qualified professional that includes verifiable survey information demonstrates the average water depth of eleven (11) feet is not attainable within the maximum length allowed from the OHWM. Existing public piers may be repaired or replaced to their previous length.

³ Includes all walkways and additional fingers. The maximum width of a ramp connecting a pier to a float should be minimized to the maximum extent practical and should not exceed 4 feet in width. On Lake Steilacoom only, pier and dock primary walkways or decks must be fully grated or contain other materials that allow light transmittance through between thirty and fifty percent (30%-50%) of the material, depending on the pier or float width.

⁴ Includes all walkways, ramps, and additional fingers. The maximum surface area also includes the areas of related or separate recreational floats. Two or more residential property owners must utilize joint-use docks and piers. Existing public piers may be repaired or replaced to their previous square footage.

e) Regulations - Recreational Floats

1) Recreational floats may be permitted, provided:

- a. The area of a recreational float shall be minimized to the maximum extent feasible and comply with regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. No recreational float shall have more than one hundred and fifty (150) square feet when associated with a private recreation land use, and four hundred (400) when associated with a public recreational land use.
- b. Distance waterward from the OHWM. Recreational floats must be in water with depths of eleven (11) feet or more at the landward end of the float and may be located up to a maximum waterward distance as shown in Table V.
- c. The area of the recreational float shall be in addition to the maximum surface area for overwater structures in Table V.

2) Recreational floats shall be designed and intended for swim use or other non-motorized use.

- 3) On Lake Steilacoom, recreational floats shall be fully grated.
- 4) Retrieval lines shall not float at or near the surface of the water.
- 5) Height. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and they must have reflectors for nighttime visibility.
- 6) All float tubs shall be fully encapsulated.

f) Regulations - Moorage Piles and Buoys

- 1) Up to two (2) moorage piles are allowed per dwelling unit, up to a maximum of six (6) moorage piles for joint use or community docks.
- 2) Up to one (1) buoy is allowed per dwelling unit in lieu of a dock.
- 3) Buoys shall be anchored to the lake substrate in accordance with all state and federal requirements.

g) Regulations - Boat Launches (Rails and Ramps)

- 1) Launching rails may be permitted as a conditional use in the Shoreline Residential environment in lieu of a moorage pier. The applicant shall demonstrate that the proposed length of the rail is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. In no case shall the rail extend beyond the point where the water depth is eight (8) feet below the OHWM.
- 2) Launching rails shall be anchored to the ground with the use of tie-type construction.
- 3) No more than one (1) launching rail per single-family residence or duplex is permitted.
- 4) Launching ramps may be permitted as a conditional use for recreational uses or when serving more than four (4) residential units in the Shoreline Residential or Urban Park environment. The applicant shall demonstrate that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM.
- 5) Launching ramps serving more than four (4) residential units are regulated as Boating Facilities and they must comply with all policies and regulations in Chapter 4 of this SMP. Launching rails serving more than four (4) residential units are prohibited.

- 6) Location Standards - Launch ramps and launching rails shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible. All facilities shall be sited and designed per required mitigation sequencing.
- 7) Where feasible, launch ramps and launching rails shall be located only on stable shorelines where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement or other maintenance activities.
- 8) The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
- 9) Design Standards
 - a. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
 - b. Preferred launch ramp designs for motorized boats, in order of priority, are:
 - i. Open grid designs with minimum coverage of lake substrate.
 - ii. Seasonal ramps that can be removed and stored upland.
 - iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
 - iv. Standard concrete pads.

h) Regulations - In-stream Structures

- 1) In-stream structures shall be minimized and shall only be allowed consistent with the provisions of the SMP, including mitigation sequencing and no net loss.
- 2) When allowed, in-stream structures shall be located, designed and operated to protect and preserve ecosystem-wide processes, ecological functions and cultural resources, including (but not limited to) fish passage, wildlife and water resources, critical areas, hydrogeological processes and natural scenic vistas.
- 3) The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species. In particular, this includes anadromous fish.

Chapter 6 Administration

A. Purpose and Applicability

There is hereby established an administrative system designed to assign responsibilities for implementation of the SMP and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP.

The SMP shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases or administers lands, wetlands, or waters that fall under the jurisdiction of the Act. The permit requirements established under the SMP apply to all nonfederal activities, and to development and uses undertaken on lands not federally owned but under lease, easement, license or other similar property right of the federal government. Nothing in the SMP shall affect and rights established by treaty to which the United States is a party.

B. Shoreline Administrator

1. Authority

- a) The City's Shoreline Administrator is hereby vested with:
 - 1) Overall authority for administering the SMA and this SMP;
 - 2) Authority to approve, approve with conditions, or deny shoreline permit revisions in accordance with the policies and provisions of this SMP; and
 - 3) Authority to grant statements of exemption from substantial development permits in accordance with the policies and provisions of this SMP.

2. Duties

- a) The duties and responsibilities of the Shoreline Administrator shall include:
 - 1) Preparing and using application forms essential to administer this SMP.
 - 2) Advising interested citizens and applicants of the policies, regulations, and procedures of this SMP.

- 3) Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA. In development of any procedures for and/or administrative interpretations of the Master Program, the Administrator shall consult with the Department of Ecology to insure any formal written interpretation is consistent with the purpose and intent of the Shoreline Management Act and the Shoreline Master Program Guidelines.
- 4) Collecting applicable fees, as established in the City's fee schedule.
- 5) Determining application submission completeness.
- 6) Conducting field inspections as necessary.
- 7) Reviewing applications and submitted and related information.
- 8) Determining if a substantial development permit, CUP, or variance is required.
- 9) Providing copies of permit applications to relevant staff and agencies for review and comment.
- 10) Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions.
- 11) Submitting substantial development permit, CUP and variance applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action.
- 12) Assuring that proper notice is given to appropriate persons and the public for all hearings.
- 13) Providing technical and administrative assistance to the City's Hearing Examiner, Planning Advisory Board, and City Council as required for effective and equitable implementation of this program and the Act.
- 14) Investigating, developing, and proposing amendments to this SMP as deemed necessary to more effectively and equitably achieve its policies.
- 15) Enforcing and seeking remedies for alleged violations of this SMP, the SMA or conditions of any approved shoreline permit issued by the City.
- 16) Acting as the primary liaison between local and state agencies in the administration of the SMA and this SMP.
- 17) Forwarding shoreline permits to the Ecology for filing or action.

C. Substantial Development

Any person wishing to undertake substantial development within the shoreline shall submit materials as required under Chapter 18A.02 LMC and shall apply to the Shoreline Administrator for a shoreline permit, as required in this Chapter and Chapter 90.58 RCW. Specific submittal requirements may be established by administrative rule.

1. Exemptions

- a) Developments, which are exempt from the requirement for a substantial development permit, are identified in WAC 173-27-040 or as subsequently amended.
- b) Applicants must apply for an exemption approval on forms provided by the City, pursuant to Chapter 18A.02 LMC. Applicants shall be required to submit information necessary to determine the exemption and compliance with the requirements of this SMP. Submittal requirements shall be established by administrative rule.
- c) Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.
- d) All development, use, or activity that occurs within the shoreline jurisdiction is subject to the requirements of this SMP, regardless of whether a substantial development permit required.
- e) Exempt development may still require a variance or CUP. For example, exempt development that cannot meet the dimensional standards in this SMP will require a variance and certain uses are allowed in certain shoreline environment designations only upon approval of a CUP.
- f) The Administrator shall prepare a letter of exemption whenever a development is determined to be exempt from the Substantial Development permit requirements and the development is subject to one or more of the federal permit requirements outlined in WAC 173-27-050. The letter shall indicate the specific exemption that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with the SMP.

2. Permit Process

- a) Applicants shall apply for substantial development permits, CUPs, and variances on forms provided by the City.

- b) Substantial development permits, CUPs, and variances are Process II applications and shall be processed and subject to the applicable regulations of Chapter 18A.02 LMC, as amended.
- c) Public Notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 18A.02 LMC, as amended, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-1 10(2)(e).
- d) Public Hearing. The Shoreline Administrator, at his or her discretion, may refer any shoreline application to the Hearing Examiner as a Process III application when the proposal could significantly impact another party or the proposal is of broad public concern. If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.
- e) Application review. The Shoreline Administrator shall make decisions on applications for substantial development permits, CUPs, and variances based upon:
 - 1) The policies and procedures of the SMA and related sections of the WAC;
 - 2) Any public comment received on the application as it relates to compliance with the requirements of the SMA or this SMP; and
 - 3) This SMP.
- f) Local Appeal. All decisions of the Shoreline Administrator may be appealed to the Hearing Examiner pursuant to Chapter 18A.02 LMC and related provisions. Any party may also appeal a substantial development permit, CUP, or variance to the Shoreline Hearings Board as provided by RCW 90.58.180 without first exhausting any local appeal opportunity. The decision of the Hearing Examiner may also be appealed to the Shoreline Hearings Board.
- g) Filing with Ecology. All applications for a permit or permit revision shall be submitted to Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a CUP or Variance, the City shall submit the permit to the Ecology for approval, approval with conditions, or denial, as provided in WAC 173-27-200. Ecology shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City. Permit revisions shall comply with the revision approval criteria and process provided in WAC 173-27-100.
- h) Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on Substantial Development Permits differs from date of filing for a CUP or variance. In the case of a substantial development permit, the date of filing is the date Ecology actually receives the

City decision on the permit. In the case of a variance or CUP, the “date of filing” means the date that Ecology’s final decision on the permit is transmitted to the City.

- i) Duration of permits. Construction, or the use or activity, shall commence within two (2) years after the effective date of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Shoreline Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and Ecology, for up to one (1) year based on reasonable factors.
- j) Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity. All uses and developments occurring within shoreline jurisdiction shall be compliant with Chapter 90.58 RCW.

D. Variances and Conditional Use Permits

The SMA states that SMPs shall contain provisions covering variances and CUPs that are consistent with Chapter 173-27 WAC. These provisions should be applied in a manner, which assures that a person will be able to use his/her property in a fair and equitable manner while still protecting the environment.

1. Shoreline Variance

a) Purpose

The purpose of a variance is strictly limited to granting relief to specific bulk dimensions, or performance standards set forth in this SMP, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

b) Application

- 1) An application for a Variance shall comply with the provisions of Chapter 18A.02 LMC. An applicant for Substantial Development Permit who wishes to request a Variance shall submit the applications for a Variance and Substantial Development Permit simultaneously.

c) Criteria for Granting Variances

- 1) Variances for development that will be located landward of the OHWM and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:
 - a. That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property.
 - b. That the hardship described above 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 SMP and not, for example, from deed restrictions or the applicant's own actions.
 - c. That the design of the project is compatible with other permitted activities within the area and with the uses planned for the area under the Comprehensive Plan and SMP and the design 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.
 - f. That the public interest will suffer no substantial detrimental effect.
- 2) Variances for a development that will be located waterward of the OHWM mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes all reasonable use of the property.
 - b. That the proposal is consistent with the criteria established under subsection (1)(a) through (f) of this section.
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
- 3) In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- 4) Variances from the use regulations of the SMP are prohibited.

2. Shoreline Conditional Use Permits

a) Purpose

The purpose of a CUP is to allow flexibility in the application of use regulations of the SMP in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and this SMP.

b) Application

An application for a CUP shall comply with the provisions of Chapter 18A.02 LMC. An applicant for a Substantial Development Permit who wishes to request a CUP shall submit the applications for a CUP and Substantial Development Permit simultaneously.

c) Criteria for Granting Shoreline Conditional Use Permits

- 1) Uses classified as conditional uses in the SMP may be authorized, provided the applicant demonstrates all of the following conditional use criteria as listed in WAC 173-27-160:
 - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
 - b. That the proposed use will not interfere with the 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 SMP;
 - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - e. That the public interest suffers no substantial detrimental effect.
- 2) In the granting of all CUPs, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if CUPs were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- 3) Other uses, which are not classified or set forth in this SMP, may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

- 4) Uses, which are specifically prohibited by this SMP, shall not be authorized.

E. Appeals to the Shoreline Hearings Board

Any person aggrieved by the granting or denying of a substantial development permit, CUP, or variance, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this SMP, may seek review from the State of Washington Shorelines Hearing Board by filing a petition for review within twenty-one (21) days of the date of filing of the permit decision. Within seven (7) days of filing the petition, the petitioner shall serve copies of the petition to Ecology, the Attorney General's Office, and the City of Lakewood. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

F. Nonconforming Use and Development Standards

1. Applicability

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or legally established prior to the effective date of the SMA or this SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP. Nonconforming uses are also subject to LMC Section 18A.02.830. Where the standards in this Section are more specific or conflict with the standards in LMC Section 18A.02.830, the standard in this Section shall apply. Where the standards contained in this Section do not address an issue related to nonconforming development, the standards contained in LMC Section 18A.02.830 shall apply.

2. Standards for Nonconforming Structures, Uses, and Lots

a) Structures

- 1) Upland structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be modified or expanded provided that said modification or expansion does not increase the extent of nonconformity by further encroaching upon, extending into, or expanding the area within areas where construction or use would not be allowed for new development or uses. Modification or addition to a nonconforming structure shall not increase the building footprint lying within the required setback area.
- 2) A nonconforming upland structure that is unintentionally damaged may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, regardless of degree of damage, provided that application is made for the permits necessary to restore the structure within two (2) years of the date the damage occurred and all permits or authorizations are obtained within three (3) years.

- 3) Additions or alterations to overwater structures shall be in conformance with all policies and regulations set forth in this SMP, including (but not limited to) the maximum size, length and other dimensional standards.
- 4) The repair, modification, and replacement of all shoreline stabilization shall be in conformance with all policies and regulations in Chapter 5, Section C(2), Shoreline Stabilization.
- 5) A legally nonconforming structure that is moved any distance must be brought in conformance with the SMP.
- 6) 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 preexisting nonconformities.

b) Uses

- 1) Uses and developments that were legally established and that are nonconforming with regard to the use regulations of the SMP may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded.
- 2) A use which is listed as a conditional use, but which existed prior to adoption of this SMP or any relevant amendment and for which a CUP has not been obtained, shall be considered a legal nonconforming use.
- 3) A legal nonconforming use may be re-established as a nonconformance, except that any nonconforming use that is discontinued for a period of six (6) continuous months shall not be re-established. To show that there has been a discontinuance or abandonment of the nonconforming use, there must be evidence that the property owner intended to discontinue or abandon the use. Vacancy of a property alone shall not constitute conclusive evidence.
- 4) A structure that is being or that has been used for a nonconforming use may not be used for another nonconforming use.

c) Sites or Lots

- 1) An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was legally established prior to the effective date of the Act or this SMP, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the City and so long as such development conforms to all other requirements of this SMP and the SMA.

G. Enforcement and Penalties

1. General Provisions

- a) The Shoreline Administrator shall enforce all provisions of this SMP. The enforcement procedures and penalties contained in Chapter 173-27 WAC and Chapter 90.58 RCW are hereby incorporated by reference. See also Chapter 1.44 LMC for additional information regarding the City's enforcement regulations and related penalties.
- b) The Shoreline Administrator shall have authority to enforce this Title, any rule or regulation adopted, and any permit, order or approval issued pursuant to this Title, against any violation or threatened violation thereof. The Shoreline Administrator is authorized to issue civil infraction citations and administrative orders, levy fines, and/or institute legal actions in court including prosecution of misdemeanor violations. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Title, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this Title, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.
- c) The Shoreline Administrator is authorized to make site inspections and take such actions as necessary to enforce the SMP. The Shoreline Administrator or representative may enter private property with the consent of the owner or occupant or pursuant to a warrant.
- d) The Shoreline Administrator shall have the authority to order restoration, rehabilitation or replacement measures to compensate for the destruction or degradation of areas at the owner's expense.
- e) The Shoreline Administrator may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of shorelines, which are inconsistent with this Title. Enforcement actions shall include civil infractions, administrative orders, prosecution of misdemeanors, and actions for damages and restoration.
- f) Aiding or abetting. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation of this Title.
- g) Any person found to have violated any provision of this Title or who knowingly makes a false statement, representation or certification in any application, record or other document filed or required to be maintained under this Title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this Title shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of up to \$1,000.00.

- h) Orders and penalties issued pursuant to this Section may be appealed as provided for by this Title.

2. Administrative Orders

- a) The Shoreline Administrator may serve an administrative order when any person makes or partakes in any use of land, development or any activity within the shoreline jurisdiction or on associated critical areas and/or buffers in violation of this Title. The order shall include the following:
 - 1) A description of the specific nature, location, extent, and time of violation. The order may include the damage or potential damage resulting from the violation.
 - 2) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order.
 - 3) Effective date. The cease and desist order issued under this Section shall become effective immediately upon receipt by the person to whom the order is directed.
 - 4) Compliance. Failure to comply with the terms of an administrative order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.
 - 5) The order may include specific corrective measures to be taken to mitigate environmental damage.
 - 6) The order shall state that an affected party may request a hearing by sending a written request for a hearing to the Shoreline Administrator within ten (10) days of the receipt of said order and upon payment of the applicable appeal fee.
 - 7) Failure to comply with the terms and provisions of an administrative order issued under this Title shall constitute public nuisance and may be abated and prosecuted according to applicable law including LMC Section 8.16, Chapter 7.48 RCW and Chapter 9.66 RCW.
 - 8) Administrative orders pursuant to this Title shall be served upon the property owner, person, or party occupying the property by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to the property owner at the property address or to the mailing address listed upon public records regarding the property. In the event that personal service or certified mail service cannot be completed, or the property owner cannot be identified or located, service of the order may be achieved by posting the administrative order in a conspicuous location upon the property.
 - a. Any person who undertakes any activity within an area regulated by the SMA or affiliated critical area or buffer without first obtaining an approval required by this Title, or who violates one or more conditions of any approval required by this Title, shall be subject to a Class 2 civil

infraction citation with a mandatory \$250.00 fine. Any person who violates one or more conditions of administrative order issued under this Title may be subject to prosecution for a misdemeanor, and a maximum penalty of 90 days in jail and/or a \$1,000.00 fine may be imposed. Each violation and, in the case of a continuing violation, each violation and each day of activity without a required approval shall be a separate and distinct violation. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. The penalty provided shall be appealable as provided by law.

- b. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Title, shall be guilty of a civil infraction or misdemeanor. Each day or portion of a day during which a violation of this Title is continued, committed, or permitted shall constitute a separate offense. Any development carried out contrary to the provisions of this Title shall constitute a public nuisance and it may be enjoined as provided by the Statutes of the State of Washington.

3. Suspension and Revocation

In addition to other penalties provided for elsewhere, the Shoreline Administrator may suspend or revoke any project permit approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.

H. Shoreline Master Program Review by City of Lakewood

1. This SMP shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.
2. The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of this SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions. This process shall also be used to periodically evaluate the cumulative effects of authorized development on shoreline conditions.
3. As part of any major update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
4. The SMP review and update process shall be consistent with the requirements of Chapter 173-26 WAC or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

I. Amendments to the Shoreline Master Program

1. Any of the provisions of this SMP may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in LMC Section 18A.02.
2. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

J. Severability

If any provisions of this SMP, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of this SMP, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

K. Conflict of Provisions

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the requirement that most supports the purposes and provisions of the SMA as detailed in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator, except when constrained by federal or state law.

Chapter 7 Definitions and Abbreviations

THE FOLLOWING WORDS AND PHRASES ARE GIVEN THE DEFINITIONS AND/OR ABBREVIATIONS PROVIDED IN THIS CHAPTER FOR PURPOSES OF INTERPRETING THIS SMP.

Accessory use or accessory structure - Any subordinate use, structure, or building or portion of a building located on the same lot as the main use or building to which it is subordinate.

Accretion - The growth of a beach by the addition of material transported by wind and/or water, including, but not limited to, shore forms such as barrier beaches, points, spits, and hooks.

Act - The Shoreline Management Act (See Chapter 90.58 RCW).

Adjacent lands or properties - Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e. zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local SMP (see RCW 90.58.340).

Agriculture - Agricultural uses, practices and activities. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020. Accessory agricultural uses may consist of garden plots, livestock pens, barns, or other structures supporting incidental agriculture on the property.

Anadromous fish - Fish species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

Appurtenance - A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and also of the perimeter of any wetland. For purposes of this SMP, normal appurtenances are outlined in Chapter 4, Section D(6)(c)(11).

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

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

Associated wetlands - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the SMA. (See WAC 173-22-030(1)).

Average grade level - The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of OHWM. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure (See WAC 173-27-030(3)).

Baseline - The existing shoreline condition, in terms of both ecological function and shoreline use, established at the time this SMP is approved.

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

Beach enhancement/restoration - Process of restoring a beach to a state that more closely resembles a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

Beach feeding - Landfill deposited on land or in the water to be distributed by natural water processes for the purpose of supplementing beach material.

Benthic organism or Benthos - Living organisms that live in or on the bottom layer of aquatic systems, at the interface of the sediment (or substrate) and overlying water column. Benthos commonly refers to an assemblage of insects, worms, algae, plants and bacteria.

Berm - A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the OHWM. A linear mound may be used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) - Methods of improving water quality that can have a great effect when applied by numerous individuals. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters.

Bioengineering - see Soil bioengineering.

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

Biota - The animals and plants that live in a particular location or region.

BMPs - see Best Management Practices.

Boat launch or ramp - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat lift - A mechanical device that can hoist vessels out of the water for storage, usually located along a pier.

Boat lift canopy - A translucent canopy or awning that is attached to the boat lift to shield the boat from sun and precipitation.

Boathouse - A structure designed for storage of vessels located over water or on shorelands. Boathouses do not include "houseboats" or "floating homes." Boathouses have 4 walls and a solid roof, whereas covered moorage does not include walls, only a roof.

Boating facility - A public or private moorage structure or boat launch serving more than four (4) residences.

Breakwater - An offshore structure generally built parallel to the shore that may or may not be connected to land, built to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore and to protect the shoreline from wave-caused erosion.

Bulkhead - A vertical or nearly vertical erosion protection structure placed parallel to the shoreline at or near the OHWM, consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"); 1986 amendments are known as Superfund Amendments and Reauthorization Act or "SARA."

Channel Migration Zone (CMZ) - The area within which a river channel is likely to move over a period of time, also referred to as the meander belt. Unless otherwise demonstrated through scientific and technical information, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement within incorporated municipalities and urban growth areas and all areas separated from the active channel by a legally existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood should not be considered within the CMZ.

Chapter 90.58 RCW - The Shoreline Management Act of 1971.

City - The City of Lakewood.

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

CMZ - see Channel Migration Zone.

Commercial - Uses and facilities that are involved in wholesale or retail trade or business activities.

Community Pier / Dock - Joint use moorage serving more than four (4) residences that is tied to specific parcels by covenant or deed. Community piers are distinguished from marinas in that they do not offer moorage space for lease or sale.

Comprehensive Plan - Comprehensive plan means the document adopted by the city council, including all attachments, that outlines the City's goals and policies relating to growth management, and prepared in accordance with Chapter 36.70A RCW.

Conditional Use - A use, development, or substantial development that is classified as a conditional use or is not classified within the SMP. (See WAC 173-27-030(4)).

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Covered moorage - Boat moorage, without solid walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the lake.

Cumulative impact - The impact on the environment resulting from the incremental impact of past, present, and reasonably foreseeable future actions taken together regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Degrade - To scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function.

Development - The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any permanent or temporary project which interferes with the normal public use of the waters overlying lands subject to the SMA at any state of water level (See RCW 90.58.030(3a)).

DFW - the Washington State Department of Fish and Wildlife.

DNR - the Washington State Department of Natural Resources.

Dock - A floating moorage structure.

Dredge spoil or Dredge material - The material removed by dredging.

Dredging - Excavation or displacement of the bottom or shoreline of a water body by mechanical or hydraulic machines to maintain channel depths or berths for navigational purposes or to cleanup polluted sediments.

Dwelling unit - A single unit providing complete, independent living facilities for one or more persons, not to exceed one family, and includes permanent provisions for living, sleeping, eating, cooking and sanitation.

EIS - Environmental Impact Statement.

Ecological functions - 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.

Ecology - The Washington State Department of Ecology.

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

EII - Terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.

Emergency - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from damage by the elements. For a complete definition of emergency, including required follow up actions and exclusions from this definition, see RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

Endangered Species Act (ESA) - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range. (See 16 U.S.C. § 1531 et seq.).

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

Environmental impacts - The effects or consequences of actions on the natural and built environments, including effects upon the elements of the environment listed in the State Environmental Policy Act. (See WAC 197-11-600 and WAC 197-11-444).

Environmentally Sensitive Areas Ordinance 362, City of Lakewood - This ordinance provides the goals, policies, and implementing regulations for protecting the designated critical areas of the City. The ordinance addresses environmentally sensitive area development controls; measures important for protecting and preserving these resources; preventing or mitigating cumulative adverse environmental impacts to critical areas; and serves to alert the public to the development limitations of critical areas.

Environments or Shoreline Environment - Designations given to specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of an SMP.

Erosion - The wearing away of land by of natural forces.

Exaction – A concept in real property law where a condition for development is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts of the development.

Excavated moorage slip - A boat mooring location that is man-made in that it requires dredging or excavation of excess sediment to afford access. Such slips may often involve dredging of the lake bottom waterward of the OHWM, or may include excavating a segment of the existing shoreline to enable moorage of a boat.

Excavation - The artificial movement of earth materials.

Exemption - Specific developments exempt from the definition of substantial developments and the Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local SMP. CUPs and/or Variances may also still be required even though the activity does not need a Substantial Development Permit. For a complete list of exemptions, see WAC 173-27-040.

Fair market value - The open market bid price for conducting the work, using the equipment and facilities, and purchasing the goods, services and materials necessary to accomplish a development, normally the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (See WAC 173-27-030(8)).

Feasible - An action, such as a development project, mitigation, or preservation requirement, that 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.

In cases where certain actions are required unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fill - The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetland, or on shorelands in a manner that raises the elevation or creates dry land.

Finger pier or fingers - A narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.

Float - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or may be a standalone structure, such as platforms used for swimming and diving.

Floating dock - A fixed structure floating upon a water body for the majority of its length and connected to shore.

Floating home - A structure designed and operated substantially as a permanently based over water residence, typically served by permanent utilities and semi-permanent anchorage/moorage facilities. Floating homes are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel.

Floodplain - The land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year (synonymous with 100-year floodplain). The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (See WAC 173-22-030(2)).

Floodway - The area, as identified in an SMP, that either: (i) has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps; or (ii) consists of those river valley areas lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, identified, under normal conditions, by changes in surface soil conditions or in types or quality of vegetative ground cover condition, topography, or other flooding indicators occurring with reasonable regularity. The floodway shall not include those lands that are reasonably expected to be protected by flood control devices maintained by or under a license from the federal government, the state, or a political subdivision of the state.

Geotechnical report or Geotechnical analysis - A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology; the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes; conclusions and recommendations regarding the effect of the proposed development on geologic conditions; the adequacy of the site to be developed; the impacts of the proposed development; alternative approaches to the proposed development; and measures to mitigate potential site-specific and cumulative 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.

Grading - The physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity.

Grassy swale - A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Groin - A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body, to protect a shoreline and adjacent upland by influencing water movement and/or material deposits. This is accomplished by building or preserving an accretion beach on its up drift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

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

Hearing Examiner - The Hearing Examiner of the City of Lakewood.

Height - The distance measured from the average grade level to the highest point of a structure; provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. Temporary construction equipment is excluded in this calculation (See WAC 173-27-030(9)).

Heliport - Any landing area or other facility used or intended to be used by private aircraft for landing or taking off of aircraft, including all associated or necessary buildings and open spaces.

Hoist - A device used for lifting or lowering a load by means of a drum or lift-wheel around which rope, fiber or chain wraps. It may be manually operated, electrically or pneumatically driven.

Houseboat - A vessel, principally used as an over water residence, licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an overwater residence means occupancy in a single location, for a period exceeding two (2) months in any one calendar year. This definition includes live aboard vessels.

Impervious surface - Any horizontal surface artificially covered or hardened so as to prevent or impede the water percolation into the soil mantle including, but not limited to, roof tops, swimming pools, or paved or graveled roads, walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

In-stream structure - A structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or water flow diversion, obstruction, or modification. In-stream structures may include structures used for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service, fish habitat enhancement, or other purpose.

Joint Use Pier or Dock - A pier, dock, or secured float or floats for vessel moorage, fishing, or other water use that is shared by two (2) or more residences, up to four (4) residences. Joint use moorage serving more than four residences is considered a community pier or dock.

Lake - A body of standing water in a depression of land or expanded part of a river, including, but not limited to, reservoirs of twenty (20) acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream (WAC 173-20-030; WAC 173-22-030(4)).

Landfill - The creation of, or addition to, a dry upland area (landward of the OHWM) by the addition of rock, soil, gravels and earth or other material, but not solid or hazardous waste.

Landscaping - Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Launching rail - See Boat launch or ramp.

Launching ramp - See Boat launch or ramp.

LID - Low Impact Development.

Littoral - Living or occurring on the shore.

Littoral drift - The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents. **Marina** - A private or public facility providing the purchase or lease of a slip for storing, berthing and securing boats or watercraft, including both long-term and transient moorage, including, but not limited to, accessory facilities that provide incidental services to marina users, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boat. Community docks and piers, which serve specific upland parcels and which do not offer moorage for purchase by the general public, shall not be considered to be marinas.

Lot Width – The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines, except that portion of a flag lot that usually forms an extended access way to a street right-of-way.

Low Impact Development (LID) - A stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

May - Signifies an action is permitted but not required, provided it conforms to the provisions of this SMP.

Mitigation or Mitigation sequencing - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal through the following sequence of steps, listed in order of priority: (See WAC 197-11-768 and WAC 173-26-201(2)(e)(1)).

- (a) Avoiding the impact all together by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action 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.

Moorage - Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

Moorage Piles - Structural members driven into the lake bed to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

Multi-family dwelling or Multi-family residence - A building containing two (2) or more dwelling units, including, but not limited to, duplexes, triplexes, four-plexes, apartment buildings and condominium buildings.

Must - Signifies an action is required.

Native plants - Plants that occur naturally, and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

Nonconforming use or development - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP or amendments thereto, but which no longer conforms to present regulations or standards of the program (See WAC 173-27-080).

Normal maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

Normal repair – To restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.

Ordinary High Water Mark (OHWM) - The mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology provided, that in any area where the OHWM cannot be found, OHWM adjoining fresh water shall be the line of mean high water. (See RCW 90.58.030(2)(c) and WAC 173-22-030(5)).

Overwater structure - Any device or structure projecting over the OHWM, including, but not limited to, piers, docks, floats, and moorage.

Permit or Shoreline Permit - Any substantial development permit, CUPs or variance, or revision, or any combination thereof, authorized by the Act (See WAC 173-27-030(13)).

Pier - A fixed, pile-supported moorage structure.

Primary structure – The structure associated with the principal use of the property. This also includes single family residential appurtenant structures (such as a garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

Priority habitat - A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- 1) Comparatively high fish or wildlife density;
- 2) Comparatively high fish or wildlife species diversity;
- 3) Fish spawning habitat;
- 4) Important wildlife habitat;
- 5) Important fish or wildlife seasonal range;
- 6) Important fish or wildlife movement corridor;
- 7) Rearing and foraging habitat;
- 8) Important marine mammal haul-out;
- 9) Refuge habitat;
- 10) Limited availability;
- 11) High vulnerability to habitat alteration;
- 12) Unique or dependent species; or
- 13) Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows); by a successional stage (such as, old growth and mature forests); or by a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority species - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels, and that meet any of the criteria listed below:

- (a) State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by DFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- (b) Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- (c) Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- (d) Species listed under the federal Endangered Species Act as proposed, threatened, or endangered.

Professional engineer - A person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering and is licensed by the State of Washington or another state.

Proposed, Threatened, and Endangered Species - Those native species that are proposed to be listed or are listed by DFW as threatened or endangered, or that are proposed to be listed or are listed as threatened or endangered under the federal Endangered Species Act.

Public access - The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. (See WAC 173-26-221(4)).

Public interest - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (See WAC 173-27-030(14)).

Public use - Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. (See WAC 332-30-106)).

RCW - Revised Code of Washington.

Residential development - Development which is primarily devoted to or designed for use as a dwelling(s), including, but not limited to, single-family development, multi-family development, and the creation of new residential lots through land division.

Recreational float - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally used for recreational purposes such as swimming and diving.

Recreational Use or Development - Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement. For the purposes of this SMP, recreational facilities are divided into two categories:

- 1) Water-oriented (i.e. - moorage facilities, fishing piers, recreational floats, trails, swimming beaches, overlooks, etc.); and
- 2) Non-water-oriented (i.e. - sports fields, golf courses, sport courts, etc.).

Restoration or Ecological restoration - The reestablishment or upgrading of impaired ecological shoreline processes or functions 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.

Riparian - Of, on, or pertaining to the banks of a river, stream or lake.

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

Rotovating - An aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

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

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

SEPA - see State Environmental Policy Act

SEPA Checklist - The checklist required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment, to help to reduce or avoid impacts from a proposal, and to help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (See WAC 197-11-960).

Setback - A required open space, specified in SMPs, measured horizontally upland from and perpendicular to the OHWM.

Shall - Signifies an action is required.

Shorelands or Shoreland Areas - Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous flood plain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the SMA. Shorelands in the City are limited to those areas within two hundred (200) feet of the OHWM of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek and any associated wetlands.

Shoreline Administrator - The City of Lakewood Planning and Community Development Director or his/her designee, charged with the responsibility of administering this SMP.

Shoreline jurisdiction - All of the geographic areas covered by the SMA, related rules and the applicable SMP. In the City, shoreline jurisdiction includes American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, those areas within two hundred (200) feet of the OHWM of these water bodies, and any associated wetlands. See definitions of Shorelines, Shorelines of the state, Shorelines of statewide significance, Shorelands, and Wetlands.

Shoreline Management Act (SMA) - Chapter 90.58 RCW, as amended. Washington law adopted to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) - The comprehensive use plan and related use regulations used by local governments to administer and enforce the permit system for shoreline management. SMPs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Master Program Guidelines - The Shoreline Master Program (SMP) Guidelines are state standards which local governments must follow in drafting their shoreline master programs. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. The guidelines are found in WAC 173-26, Part III.

Shoreline modification - Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can also include other actions, such as clearing, grading, or application of chemicals or significant vegetation removal.

Shoreline stabilization - Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as building setbacks or relocation of structures.

Shoreline vegetation management plan (SVMP) - A plan prepared by a qualified professional that identifies appropriate mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions.

Shorelines - All of the water areas of the state, including reservoirs and their associated shorelands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(e).

Shorelines Hearings Board - A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government. (See RCW 90.58.170; 90.58.180).

Shorelines of statewide significance - A select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special use preferences apply and greater planning authority is granted by the SMA. SMP policies, use regulations and permit review must acknowledge the use priorities for these areas established by the SMA. (See RCW 90.58.020).

Shorelines of the state - Shorelines and shorelines of statewide significance.

Should - Signifies an action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this SMP, against taking the action.

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

Significant vegetation removal – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Single-family residence - A detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance (See Chapter 4, Section D(6)(c)(11)).

SMA - see Shoreline Management Act.

SMP - see Shoreline Master Program.

Soil bioengineering - An applied science that combines structural, biological and ecological concepts to construct living structures that stabilize soils to control erosion, sedimentation and flooding using live plant materials as a main structural component.

Solid waste - All garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

State Environmental Policy Act (SEPA) - State law that requires state agencies, local governments and other lead agencies to consider environmental factors when making most permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs and public comment may be required.

Stream - A naturally occurring body of periodic or continuously flowing water where the mean annual flow is greater than twenty (20) cubic feet per second and the water is contained within a channel (See WAC 173-22-030(8)).

Structure - A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (See WAC 173-27-030(15)).

Substantial Development - Any development of which the total cost or fair market value exceeds six thousand, four hundred, and sixteen dollars (\$6,416), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the Washington State Office of Financial Management every five (5) years 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 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. A list of activities and developments that shall not be considered substantial development is provided in Chapter 7 (See WAC 173-27-040(2)(a)).

SVMP - see Shoreline Vegetation Management Plan.

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

Upland - The dry land area above and landward of the OHWM.

Utilities - Services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications.

Utilities, Secondary - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.

Utilities, Primary - Utilities comprised of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

Variance - A means to grant relief from the specific bulk, dimensional or performance standards specified in the applicable SMP, but not a means to vary a shoreline use. A variance must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

WAC - Washington Administrative Code.

Water-dependent use - A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations, including, but not limited to, moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use - A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-oriented use - Refers to any combination of water-dependent, water-related, and/or water enjoyment uses.

Water quality - The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. "Water quantity" refers only to development and uses regulated and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through RCW 90.03.340.

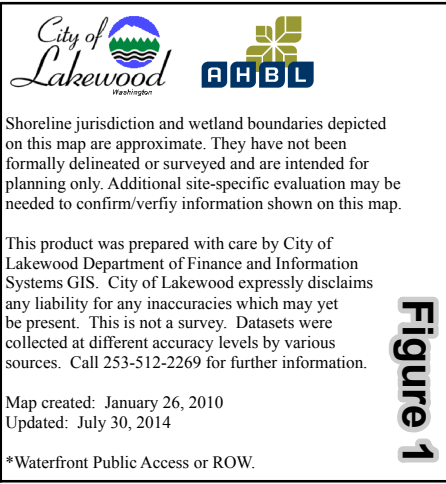
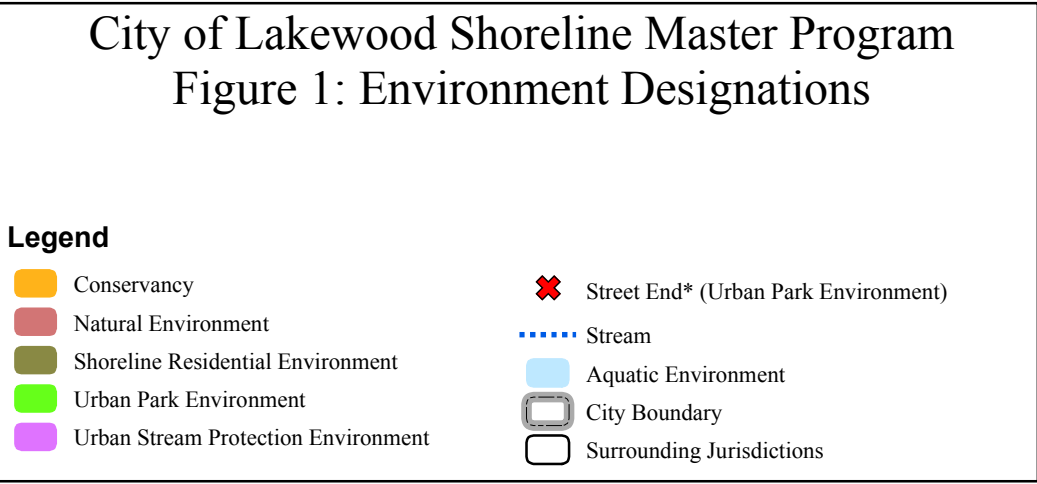
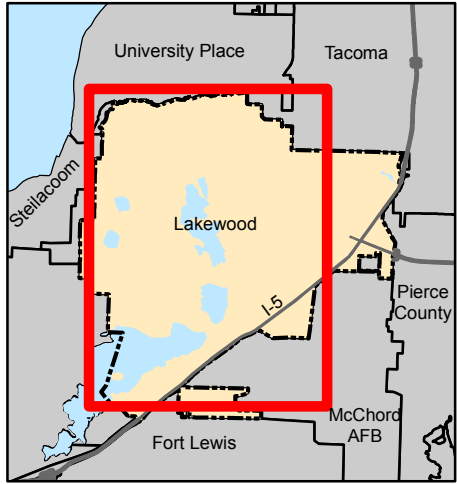
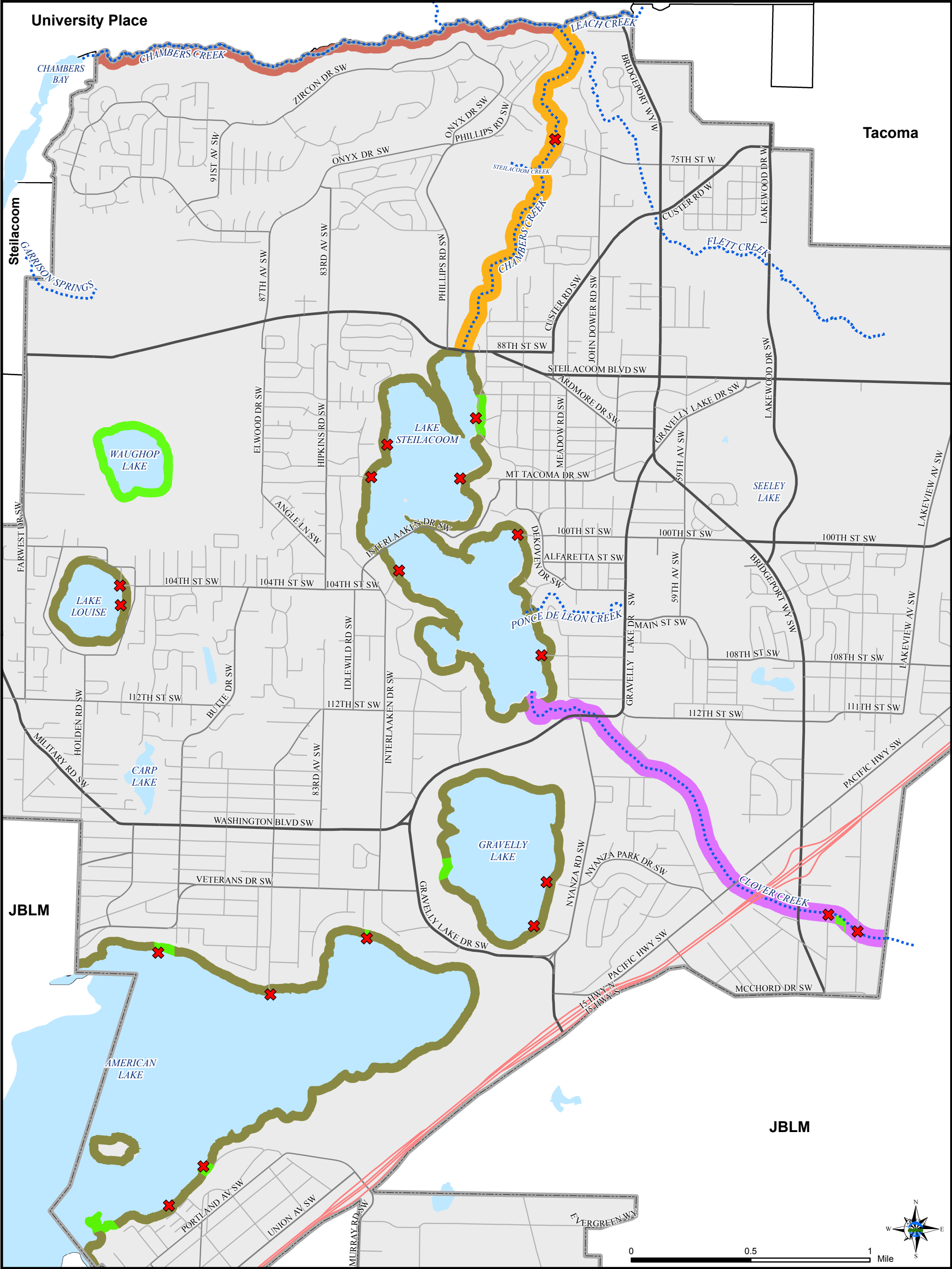
Water-related use- A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- 1) Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

- 2) The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

Zoning - To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.



ORDINANCE NO. 362

AN ORDINANCE of the City Council of the City of Lakewood, Washington repealing Chapters 14.138, 14.142, 14.146, 14.150, 14.154, 14.158, 14.162, 14.166 and 14.170 of the Lakewood Municipal Code, adopting new Critical Areas and Resource Lands Regulations, codified as Title 14A of the Lakewood Municipal Code, and amending Section 18A.40.230 of the Lakewood Municipal Code

WHEREAS, since incorporation the City of Lakewood has used an interim critical areas and resource lands code based to a large extent on Pierce County codes in effect prior to incorporation; and,

WHEREAS, in order to address the needs of the City and to comply with the planning requirements of the State's Growth Management Act, the City Council adopted its initial Comprehensive Plan on July 10, 2000; and,

WHEREAS, the City Council finds that RCW 36.70A.040 requires that the City adopt development regulations that are consistent with and implement the adopted comprehensive plan; and,

WHEREAS, the City Council finds that RCW 36.70A.060 and 170 and WAC 365-195-410 require the City to designate critical areas (wetlands, areas of critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas) and to develop and adopt development regulations that protect critical areas; and,

WHEREAS, the City Council finds that pursuant to Chapter 36.70A RCW, the City of Lakewood adopted Ordinance No. 56 on February 12, 1996, which enacted Chapters 14.138 through 14.170 of the Lakewood Municipal Code, which are the City's Interim Critical Areas and Natural Resource Lands Regulations; and,

WHEREAS, the City Council finds that RCW 36.70A.172 was amended in 1995 to require all jurisdictions to include best available science in developing policies and development regulations to protect the functions and values of critical areas and to give special consideration to

conservation or protection measures necessary to preserve or enhance anadromous fisheries;
and,

WHEREAS, the City Council finds that WAC 395-195-900 through 925 (Best Available Science Rule) provides guidance for acquiring and evaluating scientific information to determine whether this information constitutes the best available science and requires local governments to use best available science in their critical area regulation updates consistent with RCW 36.70A.172; and,

WHEREAS, the City Council finds that RCW 36.70A.130 requires all jurisdictions to review, and if necessary, update their critical area regulations using best available science by December 1, 2004; and,

WHEREAS, because the City has its own unique character it thus also has development, zoning and land use needs different than Pierce County and other jurisdictions; and,

WHEREAS, in order to assure consistency between the City's Comprehensive Plan and its development regulations, the Lakewood Planning Advisory Board has been studying ways to address development, zoning and land use needs, and has held public hearings and provided forums to receive public input for updated critical areas and resource lands regulations; and,

WHEREAS, the Planning Advisory Board has also made its recommendations to the City Council for critical areas and resource lands regulations and associated code provisions; and,

WHEREAS, having fully studied the issues, aspects and areas of concern regarding critical areas and resource lands protection in the City, the City Council is ready to adopt its full, non-interim, Critical Areas and Resource Lands Regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON
DO ORDAIN as follows:

Section 1. That the Findings of Fact establishing the basis and rationale for the adoption of proposed new critical areas regulations is hereby adopted as set forth in **Exhibit A** attached hereto.

Section 2. That Lakewood Municipal Code Chapters 14.138, 14.142, 14.146, 14.150, 14.154, 14.158, 14.162, 14.166 and 14.170 are hereby repealed as follows:

~~Chapter 14.138~~

~~CRITICAL AREAS AND NATURAL RESOURCE LANDS~~

~~AUTHORITY AND PURPOSE~~

~~Sections:~~

~~14.138.010 Authority and Title:~~

~~14.138.020 Purpose and Goals:~~

~~14.138.030 Intent:~~

~~14.138.040 Interpretation:~~

~~14.138.050 Severability:~~

~~14.138.010 Authority and Title:~~

~~This Title is established pursuant to the requirements of the Growth Management Act (RCW 36.70A.060) and the State Environmental Protection Act (RCW 43.21C). This Title shall be known as "Critical Areas and Natural Resource Lands."~~

~~14.138.020 Purpose and Goals:~~

~~This Title establishes interim regulations pertaining to the development of critical areas and natural resource lands.~~

~~The regulations established in this Title are intended to protect critical areas and conserve natural resource land features in the City of Lakewood. By regulating development within and adjacent to or abutting critical areas and natural resource lands this Title seeks to implement the following goals:~~

~~A. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.~~

~~B. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.~~

~~C. Avoid or in appropriate circumstances, to minimize, rectify, reduce or compensate for impacts arising from land development and other activities affecting wetlands, and to maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, education, and historic and cultural preservation. When avoiding impacts is not reasonable, mitigation should be implemented to achieve no net loss of wetlands in terms of acreage, function and value.~~

~~14.138.030 Intent:~~

~~Erosion, landslide, seismic, volcanic, mine and flood hazard areas, streams, wetlands, fish and wildlife habitat, and aquifer recharge areas constitute critical areas; and mineral resource lands constitute natural resource lands. All of these areas are of special concern to the people of Lakewood, Pierce County and the State of Washington. The intent of this Title is to protect critical areas and conserve the natural resource lands of the City by establishing minimum standards for development of sites which contain or are adjacent to critical areas or natural resource lands and thus promote the public health, safety, and welfare by:~~

- ~~——— A. Mitigating unavoidable impacts by regulating development;~~
- ~~——— B. Protecting from impacts of development;~~
- ~~——— C. Protecting the public against losses from:~~
 - ~~————— 1. Costs of public emergency rescue and relief operations where the causes are avoidable;~~
 - ~~————— 2. Degradation of the natural environment and the expense associated with repair or replacement;~~
- ~~——— D. Preventing adverse impacts on water availability, water quality, wetlands, and streams;~~
- ~~——— E. Protecting unique, fragile, and valuable elements of the environment, including fish and wildlife habitat;~~
- ~~——— F. Providing City officials with sufficient information to adequately protect critical areas and natural resource lands when approving, conditioning, or denying public or private development proposals;~~
- ~~——— G. Providing the public with sufficient information and notice of potential risks associated with development in critical areas;~~
- ~~——— H. Implementing the Goals and Requirements of the Growth Management Act of 1990, the State Environmental Policy Act, the Puget Sound Water Quality Management Plan, the City Comprehensive Plan, including all updates and amendments, and other land use policies formally adopted or accepted by the City.~~

~~14.138.040~~ Interpretation.

~~In the interpretation and application of this Title, all provisions shall be:~~

- ~~—— A.—— Considered the minimum necessary;~~
- ~~—— B.—— Liberally construed to serve the purposes of this Title; and~~
- ~~—— C.—— Deemed neither to limit nor repeal any other powers under state statute.~~

~~14.138.050~~ Severability.

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.~~

Chapter 14.142

~~CRITICAL AREAS AND NATURAL RESOURCE LANDS~~ ~~GENERAL REQUIREMENTS~~

Sections:

- ~~14.142.010 Purpose.~~
- ~~14.142.020 Definitions.~~
- ~~14.142.030 Applicability.~~
- ~~14.142.040 Permitted Uses.~~
- ~~14.142.050 Regulated Uses/Activities.~~
- ~~14.142.060 Exemptions.~~
- ~~14.142.070 Reasonable Use Exception.~~
- ~~14.142.080 Process.~~
- ~~14.142.090 Variance.~~
- ~~14.142.095 Current Use Assessment.~~
- ~~14.142.100 Compliance Provisions.~~
- ~~14.142.110 Fees.~~
- ~~14.142.115 Title and Plat Notification.~~
- ~~14.142.120 Appeals.~~
- ~~14.142.130 Severability.~~

~~14.142.010 Purpose~~

This Chapter establishes general requirements and regulations for the protection of critical areas and the conservation of natural resource lands which shall apply throughout this Title.

~~14.142.020 Definitions.~~

For the purpose of this Title, the following definitions shall apply:

- ~~A. "Abutting" means bordering upon, to touch upon, in physical contact with. Sites are considered abutting even though the area of contact may be only a point.~~
- ~~B. "Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development on a site.~~
- ~~C. "Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.~~
- ~~D. "Aquifer recharge area" means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater.~~
- ~~E. "Best management plan" means a plan developed for a property which specifies best management practices for the control of animal wastes, stormwater runoff, and erosion.~~
- ~~F. "Buffer" means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.~~

- ~~G. **"Building footprint"** means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.~~
- ~~H. **"Classification"** means defining value and hazard categories to which critical areas and natural resource lands will be assigned.~~
- ~~I. **"Clearing"** means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth's surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved Forest Practices Application/notification issued by the Department of Natural Resources.~~
- ~~J. **"Critical areas"** means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas.~~
- ~~K. **"Department"** means the City of Lakewood Department of Community Development.~~
- ~~L. **"Designation"** means taking formal legislative action to adopt classifications, inventories, and regulations.~~
- ~~M. **"Development"** means any human induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property.~~
- ~~N. **"Director"** means the Director of the Department of Community Development or his/her designee.~~
- ~~O. **"Erosion"** means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.~~
- ~~P. **"Erosion hazard areas"** means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human induced changes to such characteristics, are vulnerable to erosion.~~
- ~~Q. **"Existing"** means those uses legally established prior to incorporation whether conforming or nonconforming.~~
- ~~R. **"Fish and wildlife habitat areas"** means those areas identified as being of critical importance to maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; commercial and recreational shellfish areas; kelp and eelgrass beds, herring and smelt spawning areas; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity, or private organization; state natural area preserves and natural resource conservation areas.~~

- S. **"Flood hazard areas"** means areas of land located in floodplains which are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.
- T. **"Geologically hazardous areas"** means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, may pose a risk to the siting commercial, residential, or industrial development consistent with public health or safety concerns.
- U. **"Grading"** means any excavating, filling, clearing, creating (or combination thereof) of impervious surfaces.
- V. **"Landslide"** means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.
- W. **"Landslide hazard areas"** means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.
- X. **"Long-term commercial significance"** means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.
- Y. **"Minerals"** means gravel, sand, and valuable metallic substances.
- Z. **"Mineral resource lands"** means lands primarily devoted to the extraction of minerals or which have known or potential long-term commercial significance for the extraction of minerals.
- AA. **"Natural resource lands"** means mineral resource lands which have long-term commercial significance.
- BB. **"Private organization"** means a nonprofit corporation organized pursuant to RCW 24.03, which includes the planting of game fish among its purposes for organizing as a nonprofit corporation.
- CC. **"Public services"** include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.
- DD. **"Regulated activities"** include, but are not limited to, any of the following activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer: building permit; commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit;

variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.

- ~~EE. "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.~~
- ~~FF. "Short subdivision" or "short plat" means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.~~
- ~~GG. "Site" means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed.~~
- ~~HH. "Subdivision" or "formal subdivision" means the division or redivision of land into five (5) or more lots, tracts, parcels, sites, or division for the purpose of sale, lease, or transfer of ownership.~~
- ~~II. "Urban governmental services" include those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic water systems, street cleaning services, and other public utilities associated with urban areas and normally not associated with non-urban areas.~~
- ~~JJ. "Urban growth" refers to growth that makes intensive use of the land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. Characterized by urban growth refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.~~
- ~~KK. "Wetland" or "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if permitted by the City.~~

~~14.142.030 Applicability and Mapping.~~

~~A. Applicability.~~

- ~~This Title shall apply to all properties which are designated as Critical Areas or Natural Resource Lands by the City, including wetlands. Properties containing critical areas or natural resource lands are subject to this Title. When the~~

~~requirements of this Title are more stringent than those of other City codes and regulations, the requirements of this Title shall apply.~~

~~Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this Title.~~

~~Critical area regulations shall also apply to natural resource lands as set forth in this Title.~~

~~**B. Mapping.**~~

~~Maps have been developed to indicate the location of natural resource lands. Maps may be developed by the City which show the general location of critical areas for informational purposes. The actual presence of critical areas and the applicability of these regulations shall be determined by the classification criteria established for each critical area.~~

~~14.142.040 Permitted Uses.~~

~~Uses permitted on properties designated as critical areas or natural resource lands shall be the same as those permitted in the zone classification shown in the City Zoning Atlas unless specifically prohibited by this Title.~~

~~14.142.050 Regulated Uses/Activities.~~

~~Unless the requirements of this Title are met, the City shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including but not limited to the following: building permit; commercial or residential; binding site plan; conditional use permit; franchise right of way construction permit; site development permit; master plan development; right of way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.~~

~~14.142.060 Exemptions.~~

~~The following activities are exempt from the provisions of this Title:~~

- ~~_____ A. Existing agricultural activities.~~
- ~~_____ B. Maintenance or reconstruction of existing roads, paths, bicycle ways, trails, bridges, and associated storm drainage facilities, provided that reconstruction does not involve expansion of facilities;~~
- ~~_____ C. Maintenance or reconstruction of existing regional storm drainage facilities, provided that reconstruction does not involve expansion of facilities;~~
- ~~_____ D. For the following utility line activities, when undertaken pursuant to best management practices to avoid impacts to critical areas:~~
 - ~~_____ 1. Normal and routine maintenance or repair of existing utility structures or right _____ of way.~~
 - ~~_____ 2. Relocation within improved rights of way of electric facilities, lines, equipment, _____ or appurtenances, not including substations, with an associated voltage of 55,000 _____ volts or less only when required by a local government agency.~~
 - ~~_____ 3. Relocation within improved right of way of utility lines, equipment, or _____ appurtenances only when required by a local governmental agency which _____ approves the new location of the facilities.~~
 - ~~_____ 4. Installation or construction in improved City road rights of way, and _____ replacement, operation, or alteration of all electric facilities, lines, equipment, _____ or appurtenances, not including substations, with an associated voltage of 55,000 _____ volts or less.~~

- ~~5. Installation or construction in improved City road rights-of-way and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances.~~
- ~~E. Reconstruction, remodeling, or maintenance of existing single-family residential structures and accessory structures, provided that a one-time-only expansion of the building footprint does not increase by more than twenty-five percent and that the new construction or related activity does not further intrude into the critical area or related buffer. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a landslide hazard area;~~
- ~~F. Reconstruction, remodeling, or maintenance of structures, other than single-family structures and accessory structures, provided that such reconstruction, remodeling, or maintenance does not increase the floor area nor extend beyond the existing ground coverage. The exemption shall not apply to reconstruction which is proposed as a result of site or structural damage associated with a critical area, such as slope failure in a landslide hazard area;~~
- ~~G. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;~~
- ~~H. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation. The Department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken.~~
- ~~I. A residential building permit for a lot which was subject to previous reports and assessments as required under this Title; provided that the previous reports and assessments adequately identified the impacts associated with the current development proposal.~~
- ~~J. Activities related to a permit for on-site sewage disposal issued by the Tacoma-Pierce County Health Department (T-PCHD) according to all Washington State Department of Health and Tacoma-Pierce County Board of Health requirements for on-site sewage disposal. The T-PCHD shall notify the applicant or applicant's agent that the approval of the on-site sewage disposal system design complies with all Washington State Department of Health and Tacoma-Pierce County Board of Health requirements. The applicant or applicant's agent shall be advised that the requirements of the City Zoning Code shall apply to all other regulated activities associated with site development and that they can contact the City Planning Department for additional information.~~

~~14.142.065 Special Permitted Uses~~

- ~~A. The following procedures allow Community Development Department review of activities that are normally regulated, but may be allowed, provided applicable fees and application materials are submitted and the following criteria are met and approved by the Director:~~
- ~~B. Educational and Recreational Facilities.~~

~~Minor structural fill may be allowed for the construction and enhancement of public trails, such as bridging, and trail related facilities such as benches, interpretive signs, and viewing platforms. Construction of such features on all previously filled areas is allowed. The following conditions must be met:~~

- ~~1. An alternative location outside the wetland is not feasible. Trails and related facilities within wetlands shall, to the extent possible, be placed on other previously disturbed areas;~~
- ~~2. Associated facilities, such as interpretive centers, restrooms, or parking areas are not allowed within wetlands or buffers by this Conditional Exemption;~~
- ~~3. The fill on which the trails or trial related facilities is placed is limited to the minimum dimensions necessary for the actual crossing and shall not exceed 5,000 square feet;~~
- ~~4. Project design shall minimize adverse impacts to wetlands/buffers and wildlife habitat. Pervious surfaces shall be used;~~
- ~~5. All construction work in the wetland shall be done during the summer dry season (July 15 to October 15). A time extension may be granted by the Department;~~
- ~~6. Native vegetation disturbed by trail construction activities shall be salvaged and replanted in the disturbed areas to the extent possible.~~

~~C. Minor road or trail crossings.~~

~~Fills for the construction of a road or trail crossing shall be allowed in wetlands or buffers provided that crossings of wetlands shall be avoided to the extent possible. Fills for the construction of a road crossing through a category I wetland shall not be allowed by this Conditional Exemption. Crossings shall follow the following criteria:~~

- ~~1. An alternative location outside the wetland is not reasonably feasible;~~
- ~~2. The fill on which the road or trail is placed is limited to the minimum dimensions necessary for the actual crossing;~~
- ~~3. The fill placed in wetlands is limited to 5,000 square feet in wetland area;~~
- ~~4. Crossings shall utilize design which minimizes the adverse impacts to the wetland and hydrology of the existing system;~~
- ~~5. Wetland disturbance shall be limited to no greater than five feet beyond the designated toe of fill;~~
- ~~6. All construction work in the wetland shall be done during the summer dry season (July 15 to October 15). A time extension may be granted in writing by the Department ; and~~
- ~~7. Crossing shall serve multiple purposes and properties, whenever possible.~~

~~D. Erosion Control.~~

~~Bank stabilization activities necessary for erosion prevention shall be allowed in buffers and Category II and III wetlands as part of a single and complete project. Bank stabilization projects shall meet all other applicable local, state and federal laws and the following criteria:~~

- ~~1. The minimum amount of material needed for erosion prevention is used;~~
 - ~~2. The bank stabilization activity is no more than 500 feet in length, 15 feet high, and will not exceed an average of 1/2 cubic yard of fill per running foot of bank;~~
 - ~~3. No material is placed in any location or manner that may impair surface water movement into or out of any wetland area or other water body;~~
 - ~~4. No material is placed in any location or manner that may be eroded by normal or anticipated high flows; and~~
 - ~~5. The disturbed area shall be re-vegetated within 60 days after completion of the project with native species indigenous to the site. Hydro-seeding with approved mix may be used for temporary erosion control.~~
- ~~E. The construction of utility lines and poles in category II or III wetlands and buffers provided there are no feasible alternatives and impacts are mitigated.~~

~~14.142.070~~ Reasonable Use Exception.

- ~~_____ A. If the application of this Title would deny all reasonable use of a site, development may be allowed which is consistent with the general purposes of this Title and the public interest.~~
- ~~_____ B. Nothing in this Title is intended to preclude all reasonable use of property. An applicant for a development proposal may file a request for a reasonable use exception which shall be considered by the City Hearing Examiner at a public hearing, following notice, as required by the City Zoning Code. The request shall include the following information:~~
- ~~1. A description of the areas of the site which are critical areas and/or natural resource lands or within setbacks required under this Title;~~
 - ~~2. A description of the amount of the site which is within setbacks required by other standards of the zoning code;~~
 - ~~3. A description of the proposed development, including a site plan;~~
 - ~~4. An analysis of the impact that the amount of development described in subsection (3) would have on the natural resource land(s) or critical areas(s);~~
 - ~~5. An analysis of whether any other reasonable use with less impact on the natural resource land(s) or critical area(s) and associated buffer(s) is possible;~~
 - ~~6. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the natural resource land(s) and/or critical area(s);~~
 - ~~7. An analysis of the modifications needed to the standards of this Title to accommodate the proposed development;~~
 - ~~8. A description of any modifications needed to the required front, side and rear setbacks; building height; and buffer widths to provide for a reasonable use while providing greater protection to the critical area(s) and/or natural resource land(s); and~~
 - ~~9. Such other information as the Department determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.~~
 - ~~10. The Department will forward a copy of a request for reasonable use exception to the Washington State Departments of Fisheries and Wildlife and the affected Tribes for review, comment, and recommendation.~~
- ~~_____ C. The Hearing Examiner may approve the reasonable use exception, if the Examiner determines the following criteria are met:~~

- ~~1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the natural resource land(s) and/or critical area(s); and~~
~~—~~
- ~~2. The proposed development does not pose a threat to the public health, safety or welfare on or off the site; and~~
~~—~~
- ~~3. Any alteration of the natural resource land(s) and/or critical area(s) shall be the minimum necessary to allow for reasonable use of the property; and~~
~~—~~
- ~~4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of this Title; and~~
~~—~~
- ~~5. The proposal mitigates the impacts on the natural resource land(s) and/or critical area(s) to the maximum extent possible, while still allowing reasonable use of the site.~~

~~— D. Except when application of this Title would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the Title shall pursue a variance as provided in Section 14.142.090.~~

~~14.142.080 Process:~~

~~— A. The Department shall perform a critical areas and natural resource lands review of any City permit or approval requested for any regulated activity including, but not limited to, those set forth in Section 14.142.050, on a site which includes or is adjacent to or abutting one or more natural resource lands or critical areas unless otherwise provided in this Title.~~

~~— B. As part of all development applications:~~

~~— 1. The Department shall review the information submitted by the applicant to:~~

- ~~— a. Confirm the nature and type of the natural resource land and/or critical area and evaluate any required studies;~~
- ~~— b. Determine whether the development proposal is consistent with this Title;~~
- ~~— c. Determine whether any proposed alterations to the site containing natural resource lands or critical areas are necessary;~~
- ~~— d. Determine if the mitigation and monitoring plans proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this Title.~~

~~— C. A threshold determination may not be made prior to Departmental review of any~~

- ~~_____ special studies or technical reports required by this Title, except where the applicant requests a declaration of significance so that environmental review is required.~~
- ~~_____ D. The City may approve, approve with conditions, or deny any development proposal in order to comply with the requirements and carry out the goals, purposes, objectives and requirements of this Title.~~
- ~~_____ E. Approval of a development proposal does not discharge the obligation of the applicant to comply with the provisions of this Title.~~

~~**14.142.090 Variance.**~~

~~Variance applications shall be considered by the City according to Variance procedures in the City Zoning Code.~~

~~**14.142.095 Current Use Assessment**~~

- ~~A. An owner of agricultural land, timberland, or open space desiring current use classification under RCW 84.34 may file for such current use classification as provided in the City of Lakewood City Code.~~
- ~~_____ B. The Department shall notify the Assessor-Treasurer's Office when restrictions on development occur on a particular site.~~
- ~~_____ C. The Assessor-Treasurer's Office shall consider buffering requirements of this Chapter in determining the fair market value of the land. Any owner of an undeveloped buffer which has been placed in a separate tract or tracts, protective easement, public or private land trust dedication, or other similarly preserved area shall have that portion of land assessed consistent with those restrictions~~

~~14.142.100 Compliance Provisions:~~

~~The City shall require an applicant to submit a financial guarantee to the City to guarantee any performance, mitigation or monitoring required as a condition of permit approval. The permit shall not be granted until the financial guarantee is received by the Department.~~

~~A. Financial Guarantees required under this Title shall:~~

- ~~1. be in addition to the site development construction guarantee required by the City's Site Development Regulations.~~
- ~~-~~
- ~~2. be submitted on financial guarantee forms found in the City's Site Development Regulations Appendix;~~
- ~~-~~
- ~~3. be 125 percent of the estimate of the cost of mitigation or monitoring to allow for inflation and administration should the City have to complete the mitigation or monitoring;~~
- ~~-~~
- ~~4. be released by the City only when:~~

- ~~a. City officials have inspected the site(s) and the applicant's engineer and/or appropriate technical professional has provided written confirmation that the performance, mitigation or monitoring requirements have been met.~~

~~B. Penalties, Enforcement and Civil Infractions:~~

- ~~1. The Department is authorized to make site inspections and take such actions as necessary to enforce this Title. A Department representative may enter into private property with the consent of the owner or occupant or pursuant to a warrant.~~
- ~~-~~
- ~~2. The Department shall have the authority to order restoration, rehabilitation or replacement measures to compensate for the destruction or degradation of critical areas or natural resource lands at the owner's expense.~~
- ~~-~~
- ~~3. Any person, party, firm, corporation or other legal entity convicted of violating any of the provisions of this Title, shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Title is continued, committed, or permitted shall constitute a separate offense. Any development carried out contrary to the provisions of this Title shall constitute a public nuisance and may be enjoined as provided by the Statutes of the State of Washington.~~
- ~~-~~
- ~~4. In addition to any other sanction or penalty, or any remedial or administrative procedure available under the City Code or state law, violation of any provision of this Chapter or failure to comply with any permit or other written order or decision issued pursuant to this Chapter constitutes a civil infraction.~~

~~14.142.110 Fees:~~

The City shall establish an appropriate fee structure for administrative and technical review by separate resolution.

~~14.142.115 Title and Plat Notification:~~

If more than one critical areas/resource lands exist on the site subject to the provisions of this Title, then one notice which addresses all of the critical areas/resource lands shall be sufficient.

~~14.142.120 Appeals:~~

Appeals of a decision issued under this Title shall be considered by the City according to procedures in City Zoning Code.

~~14.142.130 Severability:~~

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.

~~Chapter 14.146~~

~~———— GEOLOGICALLY HAZARDOUS AREAS~~

~~Sections:~~

~~14.146.010 Purpose:~~

~~14.146.020 Definitions:~~

~~14.146.030 Erosion and Landslide Hazard Areas:~~

~~14.146.040 Seismic Hazard Areas:~~

~~14.146.050 Severability:~~

~~————~~
~~14.146.010 Purpose:~~
~~————~~

~~The intent behind the classification and designation of geologically hazardous areas is to classify and designate areas on which development should be prohibited, restricted, or otherwise controlled because of danger from geological hazards. For purposes of this Title, geologically hazardous areas include the following: erosion and landslide hazard areas; seismic hazard areas; mine hazard areas; and volcanic hazard areas.~~

~~14.146.020 Definitions:~~

- ~~———— A. "Alluvial geologic unit" means geologically recent stream, lake, swamp and beach deposits of gravel, sand, silt and peat.~~
- ~~———— B. "Buffer" means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.~~
- ~~———— C. "Clearing" means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth's surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved Forest Practices Application/notification issued by the Department of Natural Resources.~~
- ~~———— D. "Critical facilities" means those facilities occupied by populations or which handle dangerous substances including but not limited to hospitals, medical facilities; structures housing, supporting or containing toxic or explosive substances; covered public assembly structures; school buildings through secondary including day care centers; buildings for colleges or adult education; jails and detention facilities; and all structures with occupancy of greater than 5,000 people.~~
- ~~———— E. "Debris flow" means the rapid downslope movement of a viscous mass of water-saturated regolith.~~
- ~~———— F. "Earthflow" means a slow downslope movement in which saturated regolith sags downward in a series of irregular terraces.~~
- ~~———— G. "Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.~~

- H. ~~"Erosion hazard areas"~~ means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or man-made changes to such characteristics, are vulnerable to erosion.
- I. ~~"Geologically hazardous areas"~~ means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.
- J. ~~"Geological assessment"~~ means an assessment prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering or prepared by a professional geologist, hydrologist, or soils scientist as specified later in this section, who has earned the related bachelor's degree from an accredited college or university, or equivalent educational training, and has five (5) years experience assessing the relevant geologic hazard. A geological assessment must detail the surface and subsurface conditions of a site and delineate the areas of a property that might be subject to specified geologic hazards.
- K. ~~"Geotechnical report"~~ means a report prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering, evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.
- L. ~~"Ground amplification"~~ means an increase in the intensity of earthquake-induced ground shaking which occurs at a site whereby thick deposits of unconsolidated soil or surficial geologic materials are present.
- M. ~~"Landslide"~~ means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.
- N. ~~"Landslide hazard areas"~~ means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.
- O. ~~"Liquefaction"~~ means a process by which a water-saturated granular (sandy) soil layer loses strength because of ground shaking commonly caused by an earthquake.
- P. ~~"Mine hazard areas"~~ means areas directly underlain by, adjacent to or abutting, or affected by mine workings such as adits, tunnels, drifts, or air shafts.
- Q. ~~"Recessional outwash geologic unit"~~ means sand and gravel materials deposited by melt-water streams from receding glaciers.
- R. ~~"Regolith"~~ means any body of loose, noncemented particles overlying and usually covering the bedrock.

- S. — **"Seismic hazard areas"** means those areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.
- T. — **"Slump"** means the downward and outward movement of a mass of bedrock or regolith along a distinct surface of failure.
- U. — **"Toe of slope"** means a distinct topographic break in slope at the lower most limit of the landslide or erosion hazard area.
- V. — **"Top of slope"** means a distinct topographic break in slope at the uppermost limit of the landslide or erosion hazard area.

~~14.146.030 Erosion and Landslide Hazard Areas.~~

~~A. General.~~

~~Erosion hazard areas are those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human induced changes to such characteristics, are vulnerable to erosion. Landslide hazard areas are areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.~~

~~B. Classification.~~

~~1. Criteria.~~

- ~~a. Erosion hazard areas are identified by the presence of vegetative cover, soil texture, slope, and rainfall patterns, or human induced changes to such characteristics, which create site conditions which are vulnerable to erosion. Erosion hazard areas are those areas that are classified as having moderate to severe, severe or very severe erosion potential by the Soil Conservation Service, United States Department of Agriculture (USDA).~~
- ~~b. Landslide hazard areas are those areas meeting any two or more of the following criteria:~~
 - ~~1. Areas of historic failures, including areas of unstable old and recent landslides;~~
 - ~~2. Areas with all three of the following characteristics:~~
 - ~~a. Slopes steeper than 15%; and~~
 - ~~b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and~~
 - ~~c. Springs or groundwater seepage.~~
 - ~~3. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems, and fault planes, in subsurface materials;~~
 - ~~4. Slopes having gradients steeper than 80% subject to rockfall during seismic shaking;~~
 - ~~5. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;~~
 - ~~6. Areas that show evidence of, or are at risk from snow avalanches;~~
 - ~~7. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;~~

8. Any area with a slope of 30 percent or steeper and with a vertical relief of ten or more feet. A slope is delineated by establishing the toe and top and measured by averaging the inclination over at least ten feet of vertical relief;
9. Areas which have a "severe" limitation for building site development because of slope conditions, according to the Soil Conservation Service.

2. Mapping.

Areas meeting the criteria established above may be delineated in the following documents:

- a. Soil Survey of Pierce County Area, Washington, 1979, Soil Conservation Service, United States Department of Agriculture (USDA);
- b. Coastal Zone Atlas for Washington, Washington Department of Ecology;
- c. Areas designated as slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources Division of Geology and Earth Resources;

C. Restrictions on Building

In areas meeting all three of the following characteristics, no structure or disturbance of vegetation is permitted:

1. An area with a slope of 100% or steeper (45 degrees); and
2. hillside intersecting geological contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
3. springs or groundwater seepage.

D. Regulation.

For all regulated activities proposed within landslide and erosion hazard areas, a geotechnical report prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering shall be submitted (See Subsection 2 below). Where the applicant can clearly demonstrate to the Department through submittal of a geological assessment (see Subsection 1 below) that the regulated activity or any related site alterations will not occur within the landslide or erosion hazard area or any associated buffers, the requirements for a geotechnical report may be waived. A geological assessment may be prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering or by a professional geologist/hydrologist or soils scientist who has earned a bachelor's degree in geology, hydrology, soils science, or closely related field from an accredited

college or university, or equivalent educational training, and has five (5) years experience assessing erosion and landslide hazards.

1. Geological Assessments.

a. Should the applicant question the presence of landslide or erosion hazard areas on the site, the applicant may submit a geological assessment.

b. The geological assessment shall include at a minimum the following:

(1) A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site; and

(2) An evaluation of the analysis area's inherent landslide and erosion hazards; and

(3) A site plan of the area delineating all areas of the site subject to landslide and erosion hazards, based on mapping and criteria referenced in 14.146.030 B above.

The submittal must include a contour map of the proposed site, at a scale of 1"= 20 feet or as deemed appropriate by the department. Slopes shall be clearly delineated for the ranges between 15 and 29 percent, and 30 percent or greater, including figures for aerial coverage of each slope category on the site. When site specific conditions indicate the necessity, the Department may require the topographic data to be field surveyed.

2. Geotechnical Reports.

The geotechnical report shall be prepared by a professional engineer licensed by the State of Washington with experience in geotechnical engineering and shall address the existing geologic, topographic, and hydrologic conditions on a site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

a. Site Geology Information required:

(1) Topographic data. Submittal must include a contour map of the proposed site, at a scale of 1"= 20 feet or as deemed appropriate by the Department. Slopes shall be clearly delineated for the ranges between 15 and 29 percent, and 30 percent or greater, including figures for aerial coverage of each slope category on the site. When site specific conditions indicate the necessity, the Department may require the topographic data to be field surveyed.

(2) Subsurface data. Submittal must include boring logs and exploration methods; soil and rock stratigraphy,

groundwater levels and seasonal changes of groundwater levels.

(3) Site history. Submittal must include a description of any prior grading, soil instability, or slope failure.

(4) Seismic hazard. Submittal of data concerning the vulnerability of the site to seismic events.

b. Geotechnical Engineering Information required:

(1) slope stability studies and opinion(s) of slope stability;

(2) proposed angles of cut and fill slopes and site grading requirements;

(3) structural foundation requirements and estimated foundation settlements;

(4) soil compaction criteria;

(5) proposed surface and subsurface drainage;

(6) lateral earth pressures;

(7) vulnerability of the site to erosion;

(8) suitability of on-site soil for use as fill;

(9) laboratory data and soil index properties for soil samples; and

(10) building limitations.

Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site, or surrounding the site, the applicant shall submit an amendment to the geotechnical report.

The development proposal may be approved, approved with conditions, or denied based on the Department's evaluation of the ability of the proposed mitigation measures to reduce risks associated with the erosion and landslide hazard area.

3. Performance Standards.

The Department shall evaluate all geotechnical reports for landslide and erosion hazard areas to insure that the following standards are met:

a. Location and extent of development:

- ~~(1) Development shall be located to minimize disturbance and removal of vegetation;~~
 - ~~(2) Structures shall be clustered where possible to reduce disturbance and maintain natural topographic character; and~~
 - ~~(3) Structures shall conform to the natural contours of the slope and foundations should be tiered where possible to conform to existing topography of the site.~~
- ~~b. Design of development:~~
- ~~(1) All development proposals shall be designed to minimize the building footprint and other disturbed areas;~~
 - ~~(2) All development shall be designed to minimize impervious lot coverage;~~
 - ~~(3) Roads, walkways and parking areas shall be designed to parallel the natural contours;~~
 - ~~(4) Access shall be in the least sensitive area of the site.~~
- ~~The Department may approve, approve with conditions, or deny development proposals based on these performance standards.~~

~~4. Buffer Requirement.~~

~~A buffer, consisting of undisturbed natural vegetation, and measured (as shown in diagram 1) in a perpendicular direction from all landslide and erosion hazard areas, shall be required from the top of slope and toe of slope of all landslide or erosion hazard areas that measure 10 feet or more in vertical elevation change from top to toe of slope, as identified in the geotechnical report, maps, and field checking. The minimum buffer distance requirements from the top of slope and toe of slope of landslide or erosion hazard areas shall be the same as for setbacks from slopes as identified in the Uniform Building Code, as amended by the State Building Code Council under RCW 19.27.074.~~

~~To increase the functional attributes of the buffer, the Department may require that the buffer be enhanced through planting of indigenous species. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any site clearing or construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the engineer has submitted written notice to the Department that buffer requirements of this Chapter are met. Field marking shall remain until all construction and clearing phases are completed, and final approval has been granted by the Department. The buffer shall be placed in a separate critical area tract or tracts, protective easement, public or private land trust dedication, or similarly preserved through an appropriate permanent protective mechanism as determined by the Department.~~

~~5. Modifications to Buffer Width.~~

When the geotechnical report demonstrates that a lesser buffer distance, and design and engineering solutions, will meet the intent of this Chapter, such reduced buffer and design and engineering solutions may be permitted. Should the geotechnical report indicate that a greater buffer than that required by Subsection 4 is needed to meet the intent of this Chapter, the greater buffer shall be required.

~~6. Building Setback and Construction near Buffer.~~

~~Eight foot minimum setback lines shall be required from the buffer area required in Subsection 4., for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within eight feet of the buffer shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged.~~

~~7. On-site sewage disposal systems.~~

~~On-site sewage disposal systems, including drain fields within landslide or erosion hazard areas and related buffers as identified in Subsection 4. shall meet all requirements of the Tacoma Pierce County Board of Health and the Washington State Department of Health for on-site sewage disposal (WAC 246-272-140).~~

~~8. Erosion Control Plan.~~

~~Erosion control plans shall be required for all regulated activities in erosion hazard areas. The erosion control plans shall be consistent with the City Site Development Regulations, Section 3.04.~~

~~9. Notification.~~

~~a. Title Notification.~~

~~The owner of any site within an erosion hazard or landslide hazard area, as identified in 14.146.030 B. of the City Code, on which a development proposal is submitted, shall record a notice with the Pierce County Auditor in the form set forth below:~~

b. Form of Notice:

~~EROSION OR LANDSLIDE HAZARD AREA NOTICE~~

~~Parcel Number: _____~~

~~Address: _____~~

~~Legal Description: _____~~

~~Present Owner: _____~~

~~Notice: This site lies within an erosion or landslide area as defined by Chapter 14.14 of the City Code. The site was the subject of a development proposal for _____~~

~~_____~~
~~application number _____~~

~~_____~~
~~filed on _____~~

~~(date).~~

~~Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of the erosion or landslide hazard area and any restriction on use.~~

~~_____~~
~~Signature of Owner(s) _____~~

~~(NOTARY ACKNOWLEDGMENT)~~

c. Plat Notification.

~~For all proposed short subdivision and subdivision proposals within erosion hazard or landslide hazard areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:~~

~~**Notice:** This site lies within an erosion hazard or landslide hazard area as defined in Chapter 14.146 of the City Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.~~

14.146.040 Seismic Hazard Areas:

A. General.

~~Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.~~

~~_____~~ **B. Classification.**

~~_____~~ **1. Criteria.** Seismic hazard areas are areas which possess one of the two following characteristics:

~~_____~~ a. Alluvial surficial geologic unit; or

~~_____~~ b. Recessional outwash surficial geologic unit overlain by Barneston, Everett, Neilton, Pilchuck or Spanaway soils.

~~_____~~ **2. Mapping.**

~~_____~~ Seismic hazard areas are alluvial surficial geologic units and sub-areas of
~~_____~~ recessional outwash surficial geologic units, as identified in Groundwater
~~_____~~ Occurrence and Stratigraphy of Unconsolidated Deposits, Central Pierce-
County, Washington, Water Supply Bulletin Number 22, Plates One and Two, and
Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent
Islands, Water Supply Bulletin Number 18, Plate One, US Department of the
Interior, Geological Survey, Water Resources Division. Recessional outwash
geologic units are designated seismic hazard areas if overlain by Barneston, Everett,
Neilton, Pilchuck or Spanaway soils, as identified in the Soil Survey of Pierce-
County Area, Washington, United States Department of Agriculture, Soil-
Conservation Service.

~~_____~~ **C. Regulation.**

~~_____~~ For all regulated activities, except the construction of wood frame structures
under

~~_____~~ 5,000 square feet, mobile homes, fences, and/or subdivision of property,
proposed within seismic hazard areas, a geotechnical report prepared by a
professional engineer licensed by the State of Washington with expertise in
geotechnical engineering shall be submitted (see Subsection 2. below).
Retaining walls may also be excluded from the requirement of a geotechnical
report when the height of soil fills on the upper side are not in excess of 5 feet
above the toe of the wall, backfills do not exceed a top surface slope of 4:1
(H:V), and there is no permanent structure existing or proposed within a
distance of 3 times the height of the wall. Where an applicant can demonstrate
through submittal of a geological assessment (see Subsection 1.), that there
are no seismic hazards on site, the requirement for the geotechnical report
may be waived. A geological assessment may be prepared by a professional
engineer licensed by the State of Washington with expertise in geotechnical
engineering or by a professional geologist who has earned a bachelor's degree
in geology from an accredited college or university, or equivalent educational
training, and has five (5) years experience assessing seismic hazards.

~~_____~~ **1. Geological Assessments.**

~~_____~~ a. Should the applicant question the presence of seismic hazard areas
on the site, the applicant may submit a geological assessment.

~~_____~~ b. The geological assessment shall include at a minimum the
following:

~~_____~~

(1) A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site; and

(2) An evaluation of the analysis area's inherent seismic hazards; and

(3) A site plan of the area delineating all areas of the site subject to seismic hazards, based on mapping and criteria referenced in 14.146.040 B. above.

If the geological assessment demonstrates, to the satisfaction of the Department, that the proposed site is not located in any seismic hazard areas, based upon the criteria set forth in Subsection B. above, then the requirements of this Section shall not apply.

2. Geotechnical Report.

The geotechnical report shall be prepared by a professional engineer licensed by the State of Washington with experience in geotechnical engineering and shall address the existing geologic, topographic, and hydrologic conditions on a site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

a. A discussion of the surface and subsurface geologic conditions of the site;

b. A site plan of the area delineating all areas of the property subject to seismic hazards, based on mapping and criteria referenced in 14.146.040 B. above;

c. A discussion of mitigation measures which can be taken to reduce seismic risks associated from liquefaction, ground shaking, settlement or slope failure with the underlying surficial geology; and

d. An evaluation of the effectiveness of the proposed mitigation measures.

Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site, or surrounding the site, the applicant shall submit an amendment to the geotechnical report.

The development proposal may be approved, approved with conditions, or denied based on the Department's evaluation of the ability of the proposed mitigation measures to reduce seismic risks associated with the underlying surficial geology.

3. Notification.

a. **Title Notification.**

The owner of any site within a seismic hazard area as identified in 14.146.040 B. of the City Code, on which a development proposal is submitted, shall record a notice with the Pierce County Auditor in the form set forth below:

Form of Notice:

SEISMIC HAZARD AREA NOTICE

Parcel Number: _____

Address: _____

Legal Description: _____

Present Owner: _____

Notice: This site lies within a seismic hazard area as defined by Chapter 14.14 of the City Code. The site was the subject of a development proposal for _____

application number _____

filed on _____

(date).

Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of a seismic hazard area and any restrictions on use.

Signature of owner(s)

NOTARY ACKNOWLEDGMENT

b. Plat Notification:

For all proposed short subdivision and subdivision proposals within seismic hazard areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

Notice: This site lies within a seismic hazard area as defined in Chapter 14.146, of the City Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

14.146.050 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.

Chapter 14.150

~~————~~ **AQUIFER RECHARGE AREA**

Sections:

~~14.150.010 Purpose.~~

~~14.150.020 Definitions.~~

~~14.150.030 Applicability.~~

~~14.150.040 Severability.~~

~~14.150.010 Purpose.~~

~~The intent of this Chapter is to protect important water supplies from additional degradation or depletion originating from land use activities. Due to the exceptional vulnerability and susceptibility of the aquifer recharge areas to further contamination, it is the intent of this Chapter to safeguard groundwater resources in the aquifer system from hazardous substance and hazardous waste pollution by controlling or abating future pollution from new land uses or activities.~~

~~14.150.020 Definitions.~~

- ~~———— A. **"Animal Containment Area"** means a site where two or more animal units of large animals per acre or .75 of an animal unit of small animals per acre are kept, and where a high volume of waste material is deposited in quantities capable of impacting groundwater resources.~~
- ~~———— B. **"Animal Unit"** means the equivalent of 1000 pounds of animal.~~
- ~~———— C. **"Aquifer"** means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.~~
- ~~———— D. **"Aquifer recharge area"** means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. ———~~
- ~~———— E. **"Contaminant"** means any chemical, physical, biological, or radiological substance that does not occur naturally or occurs at concentrations and duration as to be injurious to human health or welfare or shown to be ecologically damaging.~~
- ~~———— F. **"DRASTIC"** means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility. ———~~

- _____ G. **"Facility"** means all structures, contiguous land, appurtenances, and other improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, disposing, or otherwise handling a hazardous substance. Use of the term "facility" includes underground and aboveground tanks, and operations which handle, use, dispose of, or store hazardous substances.
- _____ H. **"Groundwater"** means all water found beneath the ground surface, including slowly moving subsurface water present in aquifers and recharge areas.
- _____ I. **"Hazardous Substance(s)"** means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste; and including waste oil and petroleum products.
- _____ J. **"Hazardous Substance Processing or Handling"** means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five (5) gallons in volume per container. Hazardous substances shall not be disposed on-site unless in compliance with Dangerous Waste Regulations, Ch. 173-303 WAC, and any pertinent local ordinances, such as sewer discharge standards.
- _____ K. **"Hazardous waste"** means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Ch. 70.105 RCW, Ch. 173-303 WAC.

 - _____ 1. **"Dangerous waste"** means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

 - _____ a. Have short lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
 - _____ b. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
 - _____ 2. **"Extremely hazardous waste"** means any waste which:

 - _____ a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of humans or wildlife, and
 - _____ b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to humans or the environment.
- _____ L. **"Hazardous Waste Treatment and Storage Facility"** means a facility that treats and stores hazardous waste and is authorized pursuant to Ch. 70.105 RCW, Ch. 173-303 WAC. It includes all contiguous land and structures used for

recycling, reusing, reclaiming, transferring, storing, treating, or disposing of hazardous waste. Treatment includes using physical, chemical, or biological processing of hazardous wastes to make such waste non-dangerous or less dangerous and safer for transport, amenable for energy or material resource recovery. Storage includes the holding of waste for a temporary period but not the accumulation of waste on the site of generation as long as the storage complies with applicable requirements of Ch. 173-303 WAC.

1. **"Onsite Treatment and Storage Facility"** means a facility that treats or stores hazardous wastes generated on the same geographically contiguous property.

2. **"Offsite Treatment and Storage Facility"** means a facility that treats or stores hazardous wastes generated on property other than those on which the offsite facility is located.

M. **"Hydrogeologic Assessment"** means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of groundwater supplies.

N. **"Impervious Surface"** means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

O. **"Landfill"** means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

P. **"Large Animal"** means an animal with an average weight of 100 pounds or more.

Q. **"Permeable Surfaces"** mean sand, gravel, and other penetrable deposits on the ground which permit movement of groundwater through the pore spaces, and which permit the movement of fluid to the groundwater.

R. **"Sludge"** means a semisolid substance consisting of settled solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment plant or system or other sources, including septage sludge, sewage sludge, and industrial sludge.

S. **"Sludge Land Application Site"** means a site where stabilized sludge, septage, and other organic wastes are applied to the surface of the land in accordance with established agronomic rates for fertilization or soil conditioning.

1. Sludge land application sites are classified under the following five category system:

S-1 Sites of less than one acre with an application rate of less than ten dry tons of sludge per acre per five year period.

S-2 Sites with an application rate of less than 20 dry tons of sludge per acre per ten year period or less than an annual application of two dry tons of sludge per acre.

- ~~_____ S-3 Sites with an application rate of more than 20, but less than 43, dry tons of sludge per ten year period or 4.3 dry tons per acre per year.~~
- ~~_____ S-4 Sites with one time applications greater than 43 dry tons per acre and cumulative limits for metals greater than State designated practices for agricultural cropland application.~~
- ~~_____ S-5 Sites which are permanent landfill disposal facilities.~~
- ~~_____ T. **"Small Animal"** means an animal with an average weight of less than 100 pounds.~~
- ~~_____ U. **"TPCHD"** means the Tacoma Pierce County Health Department.~~
- ~~_____ V. **"Underground Tank"** means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground.~~

~~14.150.030~~**Applicability.**

- ~~_____~~ **A. General.** Aquifer recharge areas are areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute to the replenishment of groundwater.
- ~~_____~~ **B. Classification.** For the purposes of this Chapter, the boundaries of the City's aquifer recharge areas are:
 - ~~_____~~ 1. The boundaries of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range, as identified in Map of Ground Water Pollution Potential, Pierce County, Washington, National Water Well Association, US Environmental Protection Agency; and
 - ~~_____~~ 2. The Clover/Chambers Creek Aquifer Basin boundary, as identified in Draft Clover/Chambers Creek Basin Ground Water Management Program and Environmental Impact Statement, Brown and Caldwell for Washington State Department of Ecology.
 - ~~_____~~ 3. Any site located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.
- ~~_____~~ **C. Regulation.**
 - ~~_____~~ **1. Exemptions.** In addition to the exemptions listed in 14.142.060, the following uses shall be exempt from the requirements of this Chapter:
 - ~~_____~~ a. Sewer lines and appurtenances.
 - ~~_____~~ **2. Notification.**
 - ~~_____~~ **a. Title Notification.**
The owner of any site within an aquifer recharge area as identified in 14.150.030 B above, on which a development proposal is submitted, shall record a notice with the Pierce County Auditor in the form set forth below:

AQUIFER RECHARGE AREA NOTICE

Parcel Number: _____

Address: _____

Notice: ~~This site lies within an aquifer recharge area as defined by Chapter 14.16 of the City Code. The site was the subject of a development proposal for~~ _____

~~application number~~ _____

~~filed on~~ _____

~~(date).~~

~~Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of an aquifer recharge area and any restrictions on use.~~

Signature of owner(s)

(NOTARY ACKNOWLEDGMENT)

b. ~~Plat Notification.~~

~~For all proposed short subdivision and subdivision proposals within aquifer recharge areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:~~

~~**Notice:** This site lies within an aquifer recharge area as defined in Chapter 14.16 of the City Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.~~

~~3. Permeable Surfaces:~~

~~Uses that are not identified as a threat to the aquifer shall provide as much open permeable space as possible, and impervious surfaces shall be minimized.~~

~~4. Hydrogeologic Assessment.~~

a. ~~The following uses of land shall require a hydrogeologic assessment of the proposed site if the site is located within an aquifer recharge area:~~

(1) ~~Hazardous Substance Processing or Handling;~~

(2) ~~Hazardous Waste Treatment and Storage Facility;~~

(3) ~~Subdivision of land as defined in the City's Subdivision Regulations~~

- ~~_____ (4) Residential structures housing three units or more and utilizing an on-site septic system;~~
- ~~_____ (5) All commercial and industrial sites except~~
 - ~~_____ (a) those under 8,000 square feet which do not store or handle hazardous waste and~~
 - ~~_____ (b) those that are on the public sewer system;~~
- ~~_____ (6) Sludge land application sites categorized as S-3, S-4 and S-5, as defined above;~~
- ~~_____ (7) Animal Containment Area;~~
- ~~_____ (8) Landfills.~~

~~_____ b. The hydrogeologic assessment shall include, but is not limited to:~~

- ~~_____ (1) Information sources;~~
- ~~_____ (2) Geologic Setting Include well logs or borings used to identify information;~~
- ~~_____ (3) Background water quality;~~
- ~~_____ (4) Groundwater elevations;~~
- ~~_____ (5) Location/Depth to perched water tables;~~
- ~~_____ (6) Recharge potential of facility site (permeability/transmissivity);~~
- ~~_____ (7) Groundwater flow direction and gradient;~~
- ~~_____ (8) Currently available data on wells located within 1,000 feet of site;~~
- ~~_____ (9) Currently available data on any spring within 1,000 feet of site;~~
- ~~_____ (10) Surface water location and recharge potential;~~
- ~~_____ (11) Water source supply to facility (e.g. high capacity well);~~
- ~~_____ (12) Any sampling schedules necessary;~~
- ~~_____ (13) Discussion of the effects of the proposed project on the groundwater resource;~~
- ~~_____ (14) Other information as required by the TPCHD.~~

~~_____ c. The hydrogeologic assessment may be submitted by a geologist/hydrologist or by a soils scientist with a strong background in geology as demonstrated by course work from an accredited college or university; or by an environmental scientist~~

with a strong background in geology and physical sciences as demonstrated by course work from an accredited college or university. Persons who believe they are qualified to conduct a hydrogeologic assessment may petition the TPCHD for consent.

- d. Uses requiring a hydrogeologic assessment may be conditioned or denied based upon the TPCHD's evaluation of the hydrogeologic assessment. Any project denied a permit based upon the Tacoma-Pierce County Health Department's evaluation of the hydrogeologic assessment shall receive a written explanation of the reason(s) for denial and an explanation of measures required, if any, to comply with these regulations.

5. Storage Tank Permits:

The Fire Marshal specifically regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this Chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The TPCHD regulates and authorizes permits for the removal of underground storage tanks (Pierce County Code, Chapter 8.34).

- a. Facilities with underground tanks. New Underground Tanks.

- 1. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
- 2. Prevent releases due to corrosion or structural failure for the operational life of the tank;
- 3. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and
- 4. Use material in the construction or lining of the tank which is compatible with the substance to be stored.

- b. Above ground tanks.

- 1. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwaters, or surface waters of Lakewood within an aquifer recharge area.
- 2. No new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.
- 3. A new aboveground tank will require a secondary containment system either built into the tank structure or a dike system built

outside the tank for all tanks located within an aquifer recharge area.

~~14.150.040~~ Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.

~~Chapter 14.154~~

~~FISH AND WILDLIFE HABITAT AREAS~~

~~Sections:~~

~~14.154.010 Purpose and Intent.~~

~~14.154.015 General Requirements and Reasonable Use Exception.~~

~~14.154.020 Definitions.~~

~~14.154.025 Exemptions.~~

~~14.154.030 Applicability and Scope.~~

~~14.154.040 Point Locations and Habitat Distances.~~

~~14.154.050 Habitat Protection Procedures.~~

~~14.154.055 Title and Plat Notification.~~

~~14.154.060 Habitat Protection for Rivers and Streams.~~

~~14.154.062 Habitat Protection for Lakes.~~

~~14.154.065 Habitat Protection for Ponds and Puget Sound.~~

~~14.154.067 Provisions for Buffers, Where Required.~~

~~14.154.069 Variances from Buffer Requirements.~~

~~14.154.070 Appendices:~~

~~————— A. ——— Endangered, Threatened, Sensitive Candidate and Monitored
Species Recorded in Pierce County, January 1992.~~

~~————— B. ——— Diagrams Illustrating Distances from Habitat Areas and Point
Locations of Species.~~

~~————— C. ——— Fish Species Identified by the Tribes as Being of Critical
Importance~~

~~14.154.075 Assessment Relief.~~

~~14.154.090 Severability.~~

~~14.154.010 Purpose and Intent.~~

~~Many land use activities can impact the habitats of fish and wildlife. Where areas of critical fish and wildlife habitat are subject to development pressure, land use should be managed to protect critical habitats. Managing land use to protect critical habitats is intended to allow proposed development to occur in a manner that is sensitive to the habitat needs of critical fish and wildlife species.~~

~~As a necessary first step in achieving the necessary protection of critical fish and wildlife species, it is the intent of this Chapter to:-~~

- ~~A. identify critical fish and wildlife species and habitats;—~~
- ~~B. emphasize and encourage education, information and voluntary action to enhance, protect, rehabilitate, and restore critical fish and wildlife species and habitats;—~~
- ~~C. rely primarily upon existing procedures and laws, such as the State Environmental Policy Act, RCW 43.21C, the City's Shoreline Use Regulations and the Shorelines Management Act, RCW 90.58, that directly or indirectly, protect fish and wildlife species and habitats; and—~~
- ~~D. establish buffers adjacent to rivers and streams to protect critical fish and wildlife habitats.~~

~~It is not intended that this Chapter repeal, abrogate, or impair any existing law or regulations. If the buffering provisions of this Chapter conflict with any existing City law or regulation, the more stringent shall apply.~~

~~14.154.015 General Requirements and Reasonable Use Exception.~~

- ~~—— A. The general requirement provisions of Chapter 14.142 apply throughout this Title, including this Chapter 14.150 pertaining to fish and wildlife habitat areas.~~
- ~~—— B. The reasonable use exception provisions of Chapter 14.142.070 apply throughout this Title, including this Chapter 14.150 pertaining to fish and wildlife habitat areas.~~

~~14.154.020 Definitions.~~

- ~~—— A. **"Buffer"** means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.~~
- ~~—— B. **"Cave"** means a natural subterranean chamber, greater than one foot in diameter and greater than three feet deep.~~
- ~~—— C. **"Cliff"** means a steep vertical or overhanging face of rock or earth greater than 25 feet in height.~~
- ~~—— D. **"Ecotone"** means a transition area between two adjacent vegetation communities.~~
- ~~—— E. **"Extirpation"** means the elimination of a species from a portion of its original geographic range.~~

- ~~F. **"Fish and wildlife habitat areas"** means those areas identified as being of critical importance to maintenance of fish and wildlife species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; commercial and recreational shellfish areas; kelp and eelgrass beds, herring and smelt spawning areas; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; streams, and rivers planted with game fish by a governmental or tribal entity; state natural area preserves and natural resource conservation areas.~~
- ~~G. **"Fisheries biologist"** means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years professional experience as a fisheries biologist.~~
- ~~H. **"Habitat assessment"** means a report prepared by a professional wildlife biologist or fisheries biologist, which identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.~~
- ~~I. **"Habitat management plan"** means a report prepared by a professional wildlife biologist or fisheries biologist, which discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.~~
- ~~J. **"Habitat of local importance"** means an area, range or habitat within which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Examples include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration.~~
- ~~K. **"Lakes"** means impoundments of open water 20 acres or larger in size.~~
- ~~L. **"Oak woodlands"** means those areas where Oregon White Oak comprises more than 20 percent of the trees in a stand, and where the stand size is one acre or greater, provided that stand size may be smaller where White Oak serve as linkages between larger stands. Trees should be greater than 15 inches in diameter at breast height and greater than 16 feet tall.~~
- ~~M. **"Old growth forests"** means a stand of trees generally containing: mature and over mature trees in the overstory; a multi-layered canopy and trees of several age classes; and standing dead trees and down material.~~
- ~~N. **"Ordinary high water"** means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of water 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 the effective date of this Chapter or as it may naturally change thereafter. Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the mean high water.~~

- ~~O. "Ponds" means naturally occurring impoundments of open water less than 20 acres in size and larger than 2,500 square feet which maintain standing water throughout the year.~~
- ~~P. "Prairies" means open areas predominated by native, drought-resistant, grasses, forbs (flowering non-woody plants) and herbs. In Pierce County, prairies are an unusual vegetation regime found in areas of extremely well-drained soils.~~
- ~~Q. "Regulated Activities," as defined in Chapter 14.142.020, include, but are not limited to, any of the following activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer: building permit; commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.~~
- ~~R. "Rocky Shoreline Areas" means areas composed of boulders or exposed bedrock in shoreline areas of Puget Sound.~~
- ~~S. "Snag-rich areas" means forested areas which contain concentrations of standing dead trees, averaging ten snags or greater per acre, and averaging greater than 15 inches in diameter at breast height.~~
- ~~T. "Species of local importance" means species that are of local concern due to their population status or their sensitivity to habitat manipulation.~~
- ~~U. "View corridor" means an area which affords views of lakes, mountains, or other scenic amenities normally enjoyed by residential property owners.~~
- ~~V. "Wildlife biologist" means a professional with a degree in wildlife, or certification by The Wildlife Society, or with five years professional experience as a wildlife biologist.~~

~~14.154.025 Exemptions:~~

- ~~A. The activities listed in Chapter 14.142 are exempt from the provisions of this Title, including this Chapter pertaining to fish and wildlife habitat areas.~~
- ~~B. Control of noxious weeds that are included on the state noxious weed list (WAC 16-750) are exempt from this Chapter. Control may be by clipping, pulling, or digging, or by an alternative plan upon approval of a plan by the Department.~~

~~14.154.030 Applicability and Scope:~~

- ~~A. **General.** This Chapter applies to proposed regulated activities within critical fish and wildlife habitat areas. Critical fish and wildlife habitat areas are those areas identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.~~

~~B. Identification of Critical Fish and Wildlife Species and Habitats.~~

~~1. Critical Fish and Wildlife Habitat Areas.~~

- ~~a) Areas which have a primary association with federally or state-listed endangered, threatened, or sensitive species of fish or wildlife (specified in 50 CFR 17.11, 50 CFR 17.22, WAC 232-12-011, and WAC 232-12-014) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Endangered, threatened, or sensitive species found in Pierce County as of January 1992 are listed in Appendix A.~~
- ~~b) Habitats and species of local importance, including the following:~~
- ~~(1) Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, as specified in Washington Department of Wildlife Policies 4802 and 4803, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Candidate and monitored species found in Pierce County as of January 1992 are listed in Appendix A.~~
- ~~(2) Documented habitat areas or outstanding potential habitat areas for endangered, threatened, sensitive, candidate, or monitor species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:~~
- ~~(a) Oak Woodlands~~
- ~~(b) Prairies~~
- ~~(c) Old growth forests~~
- ~~(d) Rocky shoreline areas~~
- ~~(e) Caves~~
- ~~(f) Cliffs~~
- ~~(g) Snag rich areas~~
- ~~(h) Rivers and streams with critical fisheries as specifically set forth in 14.154.060 B.;~~

- (i) — Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
- (j) — Waters of the state, including all water bodies classified by the Washington Department of Natural Resources (DNR) water typing classification system as detailed in WAC 222-16-030;
- (k) — Lakes, ponds, streams, and rivers planted with game fish by a governmental entity or tribal entity;
- (l) — State natural area preserves and natural resource conservation areas.

~~2. Mapping.~~

~~The resources listed below provide information on fish and wildlife habitat areas:~~

- ~~a. Puget Sound Environmental Atlas, Puget Sound Water Quality Authority.~~
- ~~b. The following Washington Department of Natural Resources documents and data sources:~~
 - ~~1. Stream Typing Maps.~~
 - ~~2. Natural Heritage Data Base.~~
- ~~c. The following Washington Department of Wildlife documents and data sources:~~
 - ~~1. Priority Habitats and Species Program.~~
 - ~~2. Non game Data Base.~~
 - ~~3. Washington Rivers Information System.~~
- ~~d. The following Washington Department of Fisheries documents:~~
 - ~~1. Water Resource Index Areas (WRIA).~~

~~14.154.040 Point Location and Habitat Area Distances.~~

~~A. Point Locations and Habitat Distances Established.~~

- ~~1. Point locations are the specific sites (nests, dens, etc.) where critical wildlife species are found. Many of these sites have been identified and mapped by the Washington Department of Wildlife. The procedure for identifying whether proposed regulated activities are in the vicinity of species or habitat areas is as set forth below and illustrated in Appendix B.~~
 - ~~a.. Preconstruction Biology Surveys~~

~~14.154.050 Habitat Protection Procedures.~~

~~A. Education and Information.~~

~~A voluntary education program to explain the need for and methods of habitat management will provide for long term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.~~

- ~~1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.~~
- ~~2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this Chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to 14.154.040. Information shall include the number of single family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.~~

~~B. Use of Existing Procedures and Laws.~~

~~The primary procedures used to implement this Chapter shall be the State Environmental Policy Act (RCW 43.21C), the City's Environmental regulation Shorelines Management Act (RCW 90.58), and the City's Shoreline Management Regulations.~~

~~Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in Section 14.154.030.~~

~~Projects undergoing review for fish and wildlife considerations shall be routed to tribal agencies with jurisdiction for review. Tribes will have an opportunity to provide specific habitat information on proposed development sites. If necessary, the Department will seek additional assistance from the Washington Department of Wildlife, Washington Department of Fisheries, and similar appropriate state and federal agencies.~~

~~Regulated activities not normally subject to environmental review shall be exempt from the requirements of this subsection (B). Fish and wildlife habitat areas shall not be considered environmentally sensitive areas pursuant to the City's environmental regulations~~

~~14.154.055 Title and Plat Notification.~~

~~For regulated activities where a Habitat Assessment or Habitat Management Plan has been prepared as part of the proposal's environmental review, the owner of the site~~

shall record a notice of the reports with the Pierce County Auditor so that information is known if the property changes hands.

~~A. Title Notification.~~

~~The owner of any site where a habitat assessment or habitat management plan has been prepared for a development proposal shall record a notice with the Pierce County Auditor in the form set forth below:~~

~~Form of Notice:~~

~~FISH AND WILDLIFE HABITAT AREA NOTICE~~

~~Parcel Number: _____~~

~~Address: _____~~

~~Legal Description: _____~~

~~Present Owner: _____~~

~~Notice: This site lies within a critical fish and wildlife habitat area as defined by Chapter 14.18 of the City Code. The site was the subject of a development proposal for _____~~

~~application number _____~~

~~_____~~
~~filed on _____~~
~~(date).~~

~~Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of the fish and wildlife habitat area and any restriction on use.~~

~~Signature of Owner(s)~~

~~_____~~
~~Date~~

~~(NOTARY ACKNOWLEDGMENT)~~

~~_____~~ **B. Plat Notification.**

~~_____~~ For all proposed short subdivision and subdivision proposals within critical fish and wildlife habitat areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

~~_____~~ **Notice:** *This site lies within a critical fish and wildlife habitat area as defined in Chapter .14.154 of the City Code. Restrictions on use and alteration of the site may exist due to natural conditions of the site and resulting regulation.*

~~14.154.060Habitat Protection for Rivers and Streams.~~

~~_____~~ Regulated activities proposed along rivers and streams shall provide for habitat protection.

~~_____~~ **A. Habitat Protection for Rivers and Streams Shall be Provided Through Buffers.**

~~_____~~ 1. The buffer, consisting of undisturbed natural vegetation, shall be required along _____ all streams, as classified by the DNR water typing classification system (WAC _____ 222-16-030). The buffer shall extend landward from the ordinary high water mark _____ of the water body.

~~_____~~ 2. The buffer of a river or stream shall not extend landward beyond an existing _____ substantial improvement such as an improved road, dike, levee, or a permanent _____ structure which reduces the impact proposed activities would have on the river or _____ stream.

~~_____~~ **B. Critical Fishery Rivers and Streams Requiring Buffers.** The following river and stream (segments) have been identified by the various Indian tribes, particularly the Puyallup Tribe, as being critical to anadromous fish and, therefore, requiring a larger buffer protection. Specific salmon species identified by the Tribes in March 1992 are listed in Appendix C. Critical fishery rivers and streams include:

<u>Buffer Width</u>			<u>Tribe</u>
<u>Stream Name</u>	<u>WRIA #</u>	<u>In Feet</u>	<u>Identifying</u>
Chambers Creek	12.0007	150	Puyallup

~~_____~~ **C. Other Rivers and Streams Requiring Buffers.** For rivers and streams not governed by 14.154.060 B above, the buffer width shall be as follows:

<u>DNR Water Type</u>	<u>Buffer Width in Feet</u>
1 through 5	35

~~14.154.062Habitat Protection for Lakes.~~

~~_____~~ **A.** Regulated activities proposed on lakes that are urban in character will not be subject to the buffering requirements of this Chapter. The following lakes are urban in character:

~~_____~~ American

_____ Gravelly
_____ Louise
_____ Steilacoom
_____ Spanaway

_____ For proposed single-family residences on lakes that are urban in character, habitat protection shall be provided through education and/or voluntary agreements. However, existing law, as referenced in 14.154.050, may affect such proposals.

_____ For proposed regulated activities other than single-family residences, on lakes that are urban in character, habitat protection shall be provided through education, voluntary agreements, and existing laws as referenced in 14.154.050.

_____ B. Regulated activities proposed on lakes that are not urban in character shall be subject to a 35-foot buffer requirement. The buffer, consisting of undisturbed natural vegetation, shall extend landward from the ordinary high water mark of the water body. Buffers may be altered only as provided in Sections 14.154.067 and 14.154.069.

~~14.154.065 Habitat Protection for Ponds~~

Regulated activities proposed on ponds will not be subject to the buffering requirements of this Chapter. Habitat protection for ponds shall be provided through education, voluntary agreements and existing laws as referenced in 14.154.050.

~~14.154.067 Provisions for Buffers, Where Required:~~

_____ A. Building Setback and Construction near Buffer. A minimum setback of eight (8) feet from the buffer shall be required for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within eight feet of the buffer shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged.

_____ B. Marking of the Buffer Area. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to and through completion of construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground.

_____ C. Fencing from Farm Animals. Permanent fencing shall be required from the buffer when farm animals are introduced on a site.

_____ D. Enhancements to natural buffers consistent with the education program (such as re-vegetation or nest boxes) are allowed.

_____ E. Allowable Activities Within Buffers. The following activities may occur within the buffer after notification to the Department, provided that any other required permits are obtained.

_____ 1. Removal of diseased trees and trees that present a threat to properties.

- ~~2. Repair of existing fences.~~
- ~~3. Construction, reconstruction, remodeling, or maintenance of docks and bulkheads as authorized and pursuant to the Shoreline Management Regulations.~~
- ~~4. Construction of a pervious path for purposes of private access to the shoreline.~~
- ~~5. Trimming of vegetation for purposes of providing view corridors, provided that trimming shall be limited to view corridors of 20 feet or less and provided that benefits of the buffer to fish and wildlife habitat are not reduced. Trimming shall be limited to pruning of branches and vegetation. Trimming shall not include felling or removal of trees.~~
- ~~6. Construction of public trails.~~
- ~~7. Roadways, bridges, rights of way, and utility lines where no feasible alternative exists, and where the development minimizes impacts on the stream and buffer area.~~

~~14.154.069 Variances from Buffer Requirements.~~

~~The Examiner shall have the authority to grant a variance from the buffer width provisions of this Chapter. In order to grant a buffer width variance, the applicant must demonstrate and the Examiner must find that the requested buffer width modification preserves adequate vegetation to: (1) maintain proper water temperature, (2) minimize sedimentation, and (3) provide food and cover for critical fish species. Variance applications shall be considered according to the variance procedures in the City Zoning Code.~~

APPENDIX A

~~Endangered, Threatened, Sensitive, Candidate, and Monitored Species
Recorded in Pierce County, January 1992.~~

~~The following species have been confirmed to occur in Lakewood by the
Washington Department of Wildlife as of January 1992. The state status of
each species is listed.~~

Birds

<u>Common Name</u>	<u>State Status</u>
Bald Eagle	Threatened
Great Blue Heron	Monitor
Marbled Murrelet	Candidate
Northern Goshawk	Candidate
Osprey	Monitor
Peregrine Falcon	Endangered
Pileated Woodpecker	Candidate
Purple Martin	Candidate
Spotted Owl	Endangered
Vaux's Swift	Candidate
Western Bluebird	Candidate

Mammals

<u>Common Name</u>	<u>State Status</u>
Gray Wolf	Endangered
Roy Prairie Pocket Gopher	Candidate
Western Gray Squirrel	Candidate

Reptiles

<u>Common Name</u>	<u>State Status</u>
Western Pond Turtle	Threatened

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~~APPENDIX B~~

~~Diagrams Illustrating Distances from Habitat Areas and Point Locations of Identified Species.~~

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~~APPENDIX C~~

~~Fish Species Identified by the Tribes as Being of Critical Importance.~~

~~Protection of these species shall be by education and information according to 14.154.050-A. and by buffers according to 14.154.060.~~

~~14.154.075 Assessment Relief.~~

- ~~A. The assessment provisions of Chapter 14.142.095 apply through this Title, including this Chapter 14.154) pertaining to fish and wildlife habitat areas.~~
- ~~B. The Assessor-Treasurer's Office shall consider buffering requirements of this Chapter in determining the fair market value of land. Any owner of an undeveloped buffer which has been placed in a separate buffer tract, protective easement, public or private land trust dedication, or other similarly preserved areas shall have that portion of the land assessed consistent with these restrictions.~~

~~14.154.090 Severability.~~

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.~~

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~~Chapter 14.158—~~

~~—FLOOD HAZARD AREAS~~

Sections:

~~14.158.010 Purpose.~~

~~14.158.020 Definitions.~~

~~14.158.030 Applicability.~~

~~14.158.040 Severability.~~

~~14.158.010 Purpose.~~

~~Floodplains and other areas subject to flooding perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.~~

~~14.158.020 Definitions.~~

- ~~—— A. "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "100-year flood."~~
- ~~—— B. "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:~~
 - ~~—— 1. The overflow of inland or tidal waters, and/or~~
 - ~~—— 2. The unusual and rapid accumulation of runoff of surface waters from any source.~~
- ~~—— C. "Floodfringe" means the area subject to inundation by the base flood, but outside the limits of the floodway, and which may provide needed temporary storage capacity for flood waters.~~
- ~~—— D. "Flood Hazard Areas" means land in a floodplain within the City subject to a one percent or greater chance of flooding in any given year.~~
- ~~—— E. "Floodplain" means the total area subject to inundation by the base flood, including the floodfringe and the floodway areas.~~
- ~~—— F. "Floodway" means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast flowing water.~~

~~14.158.030~~Applicability.

~~A. General.~~

~~Floodplains and other areas subject to flooding perform important hydrologic functions.~~

~~B. Classification.~~

~~All flood hazard areas shall be as identified in the scientific and engineering report entitled "The Flood Insurance Study for Pierce County," dated August 19, 1987, or as amended, with accompanying Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA).~~

~~C. Regulation.~~

~~All development in flood hazard areas shall be according to the "Site Development Regulations Ordinance."~~

~~14.158.040~~Severability.

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.~~

CHAPTER 14.162

WETLANDS AREAS

Sections:

~~14.162.010 Purpose.~~

~~14.162.020 Definitions.~~

~~14.162.030 Wetland Categories.~~

~~14.162.040 Regulated Activities.~~

~~14.162.050 Exemptions.~~

~~14.162.060 Delineation and Wetland Analysis Requirements.~~

~~14.162.070 Establishing Buffers.~~

~~14.162.080 Standards for Allowing Regulated Activities in Wetlands and Buffers,
Including a Reasonable Use Exception.~~

~~14.162.090 Mitigation.~~

~~14.162.100 On-site Density Transfer.~~

~~14.162.110 Transfer of Development Rights.~~

~~14.162.220 One-Family Dwellings Procedures and Reasonable Use Exception.~~

~~14.162.130 New Agricultural Activities.~~

~~14.162.135 Alternative Review Process, Corps of Engineers Section 404 Individual
Permits.~~

~~14.162.140 Wetland Application Procedure and Fees.~~

~~14.162.150 Reconsideration and Appeal Procedures.~~

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~~_____ D. Compensatory Mitigation Plan for Regulated Activities in
Wetlands, Conceptual Phase.~~

~~_____ E. Compensatory Mitigation Plan for Regulated Activities in
Wetlands, Detailed Phase.~~

~~14.162.220 Severability.~~

~~14.162.010 Purpose.~~

~~The purpose of these regulations is to avoid, or in appropriate circumstances, to minimize, rectify, reduce or compensate for impacts arising from land development and other activities affecting wetlands, and to maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, education, and historic and cultural preservation. When avoiding impacts is not reasonable, mitigation should be implemented to achieve no net loss of wetlands in terms of acreage, function and value.~~

~~14.162.020 Definitions.~~

~~For purposes of this Chapter, the following definitions shall apply:~~

- ~~_____ A. "Activity" means any use conducted on a site.~~
- ~~_____ B. "Agricultural activities" means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter 76.09 RCW, Title 222 WAC are not included in this definition.~~
- ~~_____ C. "Applicant" means a person, party, firm, corporation, or other legal entity that proposes any activity on a site.~~
- ~~_____ D. "Best management plan" means a plan developed for property which specifies best management practices for the control of animal wastes, stormwater runoff, and erosion.~~
- ~~_____ E. "Buffer" means an area contiguous to a wetland that is required for the integrity, maintenance, function, and structural stability of the wetland.~~
- ~~_____ F. "Building footprint" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.~~
- ~~_____ G. "Class" means one of the wetland classes in the United States Fish and Wildlife Service (USFWS) December 1979 publication, Classification of Wetlands and Deep Water Habitats of the United States.~~
- ~~_____ H. "Clearing" means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth's surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved Forest Practices Application/notification issued by the Department of Natural Resources.~~

- I. **"Compensatory mitigation"** means mitigation to compensate for loss of wetland habitat due to filling of wetlands or other regulated activities in wetlands.
- J. **"Creation"** means producing or forming a wetland through artificial means from an upland (non-wetland) site.
- K. **"Degraded"** means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.
- L. **"Delineation"** means a wetland study conducted in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1989 edition (Unified Federal Manual).
- M. **"Delineation report"** means a written document prepared by a wetland specialist which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.
- N. **"Department"** means the City Department of Community Development.
- O. **"Dwelling unit"** means one or more rooms designed for or occupied by one family for living or sleeping purposes and containing kitchen facilities for use solely by one family.
- P. **"Earth/earth material"** means naturally occurring rock, soil, stone, sediment, or combination thereof.
- Q. **"Enhancement"** means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing non-indigenous plant or animal species, removing fill material or solid waste).
- R. **"Excavation"** means the mechanical removal of earth material.
- S. **"Fill/fill material"** means a deposit of earth material, placed by human or mechanical means.
- T. **"Filling"** means the act of placing fill material on any surface, including temporary stockpiling of fill material.
- U. **"Grading"** means any excavating, filling, clearing, or creating of impervious surfaces or combination thereof.
- V. **"Hydrologically isolated wetland"** means a wetland which:
 - 1. Is not contiguous to any 100-year floodplain of a lake, river or stream; and
 - 2. Has no contiguous surface hydrology, hydric soil or hydrophytic vegetation between the wetland and any other wetland or stream system.

- ~~W. **"In-kind mitigation"** means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.~~
- ~~X. **"Mitigation"** means to avoid, minimize or compensate for adverse wetland impacts.~~
- ~~Y. **"One-family dwelling"** means a detached building designed exclusively for occupancy by one family and containing one dwelling unit.~~
- ~~Z. **"Out-of-kind mitigation"** means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.~~
- ~~AA. **"Permanent erosion control"** means continuous on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.~~
- ~~AB. **"Person"** means an individual, firm, company, partnership, association, corporation, or other legal entity.~~
- ~~AC. **"Restoration"** means the re-establishment of a viable wetland from a previously filled or degraded wetland site.~~
- ~~AD. **"Site"** means a parcel or combination of parcels of land on which a regulated activity is proposed.~~
- ~~AE. **"Slope"** means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.~~
- ~~AF. **"Stockpiling"** means the placement of material with the intent to remove it at a later time.~~
- ~~AG. **"Subclass"** means one of the subclasses identified in the United States Fish and Wildlife Service (USFWS), December 1979 publication, Classification of Wetlands and Deep Water Habitats of the United States.~~
- ~~AH. **"Substrate"** means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of a wetland.~~
- ~~AI. **"Temporary erosion control"** means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.~~
- ~~AJ. **"Utility line"** means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, communications and sanitary sewers.~~
- ~~AK. **"Wetland"** or **"wetlands"** means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do~~

not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas, created to mitigate conversion of wetlands, if permitted by the City.

AL. **"Wetland specialist"** means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or
2. Four years of related work experience and training, with a minimum of two years experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans.

The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, The City Site Development Regulations, The City Wetland Management Policies, and the requirements of this Chapter.

~~14.162.030 Wetland Categories.~~

~~Appendix A provides the detailed criteria for establishing wetland categories; however, wetlands shall be generally designated as follows:~~

- ~~A. Category I wetlands are those regulated wetlands of exceptional resource value based on significant functional value and diversity, wetland communities of infrequent occurrence, and other attributes which may not be adequately replicated through creation or restoration.~~
- ~~B. Category II wetlands are those regulated wetlands of significant resource value based on significant functional value and diversity, wetland communities of infrequent occurrence, and other attributes which may not be adequately replicated through creation or restoration.~~
- ~~C. Category III wetlands are those regulated wetlands which have important resource value based on vegetative diversity.~~
- ~~D. Category IV wetlands are those regulated wetlands of ordinary resource value based on monotypic vegetation of similar age and class, lack of special habitat features, and isolation from other aquatic systems.~~
 - ~~1. The provisions of this Chapter apply to development proposed on properties within 300 feet of designated resource lands.~~
 - ~~2. All plats, short plats, development permits, and building permits issued for development activities within 300 feet of lands designated as agricultural, forest, or mineral resource lands shall contain a notice that the property is within 300 feet of agricultural, forest, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.~~

~~14.162.040 Regulated Activities.~~

- ~~A. Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other Federal, State, or local law or regulation. Requirements include but are not limited to those of the U.S. Army Corps of Engineers, Washington Department of Wildlife and Washington Department of Fisheries, which must be met prior to commencing activities affecting wetlands, except as addressed in Section 14.162.135 regarding Corps of Engineers Section 404 Individual Permits.~~
- ~~B. The following activities within a wetland and/or buffer, unless exempted by Section 14.162.050, shall be regulated:~~
 - ~~1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;~~
 - ~~2. Dumping, discharging or filling;~~
 - ~~3. Draining, flooding or disturbing the water level or water table. In addition, an activity which involves intentional draining, flooding or disturbing the~~

~~water _____ level or water table in a wetland, in which the activity itself occurs outside the _____ wetland and buffer, shall be considered a regulated activity.~~

~~_____ 4. Driving piling or placing obstructions, including placement of utility lines;~~

~~_____ 5. Constructing, reconstructing, demolishing or altering the size of any structure or _____ infrastructure;~~

~~_____ 6. Altering the character of a wetland by destroying or altering vegetation through _____ clearing, harvesting, cutting, intentional burning, shading or planting;~~

~~_____ 7. Activities which result in significant changes in water temperature or physical or _____ chemical characteristics of wetland water sources, including changes in quantity _____ of water and pollutant level;~~

~~_____ 8. Application of pesticides, fertilizers and/or other chemicals, unless demonstrated _____ not to be harmful to wetland habitat or wildlife.~~

~~_____ 9. The division or redivision of land.~~

~~-C. The Department may require protection measures or erosion control measures such _____ as temporary or permanent fencing to provide for protection of a wetland and buffer _____ when any of the above activities are proposed on a site, but are not proposed within _____ a wetland and/or buffer.~~

~~14.162.050 Exemptions:~~

~~The following activities are exempt from the provisions of this Chapter:~~

~~A. _____ Existing agricultural activities. The activities cease to be existing when the area on which they were conducted has been converted to a non-agricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume agricultural activities, unless the idle land is registered in a federal or state soils conservation program;~~

~~B. _____ Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations, Title 222 WAC, and which are exempt from the City jurisdiction;~~

~~C. _____ Activities in artificial wetlands, except as set forth in 14.162.020 Definitions, Subsection AK;~~

~~D. _____ Activities affecting:~~

~~1. _____ Category III wetlands which are less than 2,500 square feet;~~

~~2. _____ Category IV wetlands which are less than 10,000 square feet;~~

~~E. _____ Placement of access roads, utility lines and utility poles across a Category IV wetland and/or a buffer for a Category IV wetland if there is no reasonable alternative;~~

- ~~F. Maintenance or reconstruction of roads existing on the effective date of this Chapter, provided that reconstruction does not involve expansion of facilities;~~
- ~~G. For the following utility line activities, when undertaken pursuant to best management practices to avoid impacts to wetlands:~~
- ~~1. Normal and routine maintenance or repair of existing utility structures or right-of-way.~~
 - ~~2. Relocation within improved rights-of-way of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by a local governmental agency.~~
 - ~~3. Relocation within improved rights-of-way of utility lines, equipment or appurtenances, only when required by a local governmental agency which approves the new location of the facilities.~~
 - ~~4. Installation or construction in improved City rights-of-way, and replacement, operation or alteration of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less.~~
 - ~~5. Installation or construction in improved City road rights-of-way, and replacement, operation, repair or alteration of all utility lines, equipment or appurtenances.~~
- ~~H. Activities on improved portions of roads, rights-of-way or easements, provided there is no expansion of ground coverage;~~
- ~~I. Reconstruction, remodeling, or maintenance of one-family dwellings and accessory structures existing on the effective date of this Chapter, provided that a one-time only expansion of the building footprint does not increase that footprint by more than twenty-five percent;~~
- ~~J. Reconstruction, remodeling, or maintenance of structures, other than one-family dwellings and accessory structures, provided that such reconstruction, remodeling, or maintenance does not increase the floor area nor extend beyond the existing ground coverage;~~
- ~~K. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. Wetland impacts shall be minimized and disturbed areas shall be immediately restored;~~
- ~~L. Activities in wetlands in areas managed according to a Special Area Management Plan or other plan adopted by the City and specifically designed to protect wetland resources;~~
- ~~M. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation. the Department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken.~~

- ~~N. Control of noxious weeds that are included on the state noxious weed list. Control Agency's Administrative Superfund Enforcement Order or a Washington Department of may be by clipping, pulling, or digging, or by an alternative plan upon approval of a plan by the Department.~~
- ~~Ø. Activities undertaken to comply with the United States Environmental Protection Ecology Administrative Enforcement Order pursuant to the Model Toxins Control Act, including the following activities:~~
- ~~1. Remediation or removal of hazardous or toxic substances;~~
 - ~~2. Source control; and~~
 - ~~3. Natural resource damage restoration.~~
- ~~P. Maintenance activities of landscaping and gardens in a wetland buffer, including, but not limited to, mowing lawns, weeding, harvesting and replanting of garden crops, pruning and planting of vegetation to maintain the condition and appearance of the site existing on February 1, 1992.~~
- ~~Q. Activities designed for previously approved maintenance and enhancement of wetlands.~~
- ~~R. Activities undertaken on the site of an existing holding pond where the water flow and/or water table is controlled by a previously approved pump system.~~
- ~~S. Public stormwater retention/detention facilities may be constructed within Category 2, 3 and 4 wetlands or their buffers provided that the following conditions are met: 1). no untreated stormwater is released directly into the wetlands; 2). water levels are monitored annually to ensure that pre-existing functions and values of the wetland are not significantly lost through fluctuations in wetland hydrology; 3). maintenance activity within the wetland is limited to removal of invasive vegetation and/or removal of sediment accumulation at inflow structures in a manner acceptable to the Community Development Department; 4). there is no loss of wetland area; and 5). all construction activity is conducted in accordance with accepted BMPs.~~
- ~~Stormwater conveyance facilities such as bioswales, culverts, and open trenches, that are not designed to drain wetlands, may be placed within required buffers for category 1, 2, 3 and 4 wetlands, subject to meeting the conditions listed above. This conditional exemption would not apply in situations where there are threatened or endangered species, or sensitive plants, unless approved by the State Department of Fish and Wildlife or Department of Natural Resources, respectively.~~
- ~~All permits from other regulatory agencies must be obtained.~~
- ~~T. A utility line (any pipe or pipeline that transports any gaseous, liquid, liquefiable or slurry substance, and any cable, line or wire for the transmission of electrical energy, telephone, and telegraph messages, and radio and television communication, not including activities which drain a wetland, but including pipes that convey drainage from one area to another) may be placed in an underground trench within a category 2, 3 or 4 wetland or its buffer. There must be no resulting changes in pre-construction~~

contours, and trench excavation materials that are temporarily sidecast must be stabilized to prevent erosion and sedimentation. All sidecast materials shall be replaced within the trench or removed after 90 days, unless an extension is granted by the Community Development Department. The trench shall be the minimum size required to construct the utility line. The top 12" of the trench shall be backfilled with topsoil from the trench excavation. Trenches in wetlands shall be backfilled with wetland topsoil from the excavation, and appropriate vegetation planted to restore the site to a nearly as practical the pre-trenching condition. Trench excavation should be restricted to the dry season.

All permits from other regulatory agencies must be obtained.

~~14.162.060 Delineation and Wetland Analysis Requirements.~~

Regulated activities shall comply with the following requirements:

A. The Department may require a delineation report to determine if a regulated wetland is present on the site or to determine if the proposed activity is within 150 feet of a wetland. The delineation report indicates wetland and/or buffer boundaries that may extend onto the site. While the delineation report shall discuss all wetland areas within 150 feet of the site, only those boundaries within the site property lines need be marked in the field; there is no need to intrude on others' property.

1. A preliminary site inspection may be required by the Department to determine whether a delineation report is needed.

2. If a preliminary site inspection is necessary, the applicant may either select a consultant or request Department staff to inspect the site. The applicant shall pay the appropriate fee prior to a site inspection by Department staff.

B. If the Department determines that a regulated wetland is on the site, or within 150 feet of the site so that a wetland buffer boundary may extend onto the site, then the Department shall require a wetland analysis report. Appendix B identifies information required in a wetland analysis report.

C. The Department shall review and approve the wetland analysis report to determine the appropriate wetland category and buffer, and shall include the wetland in the City Wetland Atlas. The Department shall approve the report's findings and proposals unless specific, written reasons are provided which justify not doing so.

~~14.162.070 Establishing Buffers.~~

A. Buffer widths shall be determined according to the following table:

<u>Wetland Category</u>	<u>Buffer Width</u>
I	150 feet
II	100 feet
III	50 feet
IV	25 feet

B. Buffer widths may be modified by averaging, reducing, or increasing.

_____ 1. Buffer width averaging may be allowed only where the applicant demonstrates _____ the following:

_____ a. The wetland contains variations in sensitivity due to existing physical _____ characteristics; and

_____ b. Width averaging will not adversely impact the wetland; and

_____ c. The total buffer area after averaging is no less than the buffer area prior to _____ averaging; and

_____ d. The minimum buffer width will not be less than fifty percent of the widths _____ established in 14.162.070 A.

_____ 2. Buffer width reduction may be allowed only where the applicant demonstrates _____ the following circumstances. Such reduction shall not result in greater than a _____ twenty five percent reduction in the buffer width established in 14.162.070 A.

_____ a. The proposed buffer area is extensively vegetated and has less than fifteen _____ percent slopes, and the reduction will not result in adverse impacts to the _____ wetland; or

_____ b. The project includes a buffer enhancement plan, as part of the mitigation _____ required by Section 14.162.090. The buffer enhancement plan shall use plant _____ species which are indigenous to the project area, and shall substantiate that an _____ enhanced buffer will improve the functional attributes of the buffer to provide _____ additional protection for wetland functional values; or

_____ c. The acreage included in the buffer would substantially exceed the size of the _____ wetland and the reduction will not result in adverse impacts to the wetland or _____ the project includes a buffer enhancement plan which ensures that the _____ reduction will not result in adverse impacts to the wetland.

_____ 3. The Department may require increased buffer width when a larger buffer is _____ necessary to protect wetland functions and values based on local conditions. _____ This determination shall be reasonably related to protection of the functions and _____ values of the regulated wetland. Such determination shall demonstrate that:

_____ a. A larger buffer is necessary to maintain viable populations of existing _____ species; or

_____ b. The wetland is used by species listed by the federal government or the state _____ as endangered, threatened, sensitive or as documented priority species or _____ habitats, or essential or outstanding potential sites such as heron rookeries or _____ raptor nesting areas; or

_____ c. The adjacent land is susceptible to severe erosion and erosion control _____ measures will not effectively prevent adverse wetland impacts; or

_____ d. The adjacent land has minimal vegetative cover or slopes greater than fifteen _____ percent.

_____ C. Buffers shall be measured perpendicular from the wetland edge.

_____ D. When buffer boundaries have been determined, they shall be marked in the field by _____ a licensed surveyor. The markers shall be clearly visible, durable, and permanently _____ affixed to the ground.

_____ E. A building setback line of eight feet shall be required from the edge of a buffer.

_____ F. Except as otherwise specified, buffers shall be retained in a natural condition.

~~14.162.080 Standards for Allowing Regulated Activities in Wetlands and Buffers, Including a Reasonable Use Exception:~~

_____ A. Regulated activities in Category III and IV wetlands and/or buffers for Category III _____ and IV wetlands may be allowed when the applicant demonstrates to the _____ Department that all adverse impacts to wetlands will be mitigated according to _____ Section 14.162.090;—

_____ B. The placement of access roads, utility lines, and utility poles may be allowed in _____ buffers for Category II wetlands if the following conditions are met:—

_____ 1. There is no feasible alternative location for an access road and/or utilities to the _____ site; and—

_____ 2. The applicant demonstrates that all adverse impacts to wetlands will be _____ mitigated according to a mitigation plan which complies with Appendix C.

_____ C. The following activities may be allowed in a buffer without a complete mitigation plan if the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated according to Section 14.162.090.—In cases which require environmental review, a threshold environmental determination may not be made until the Department is satisfied that adequate mitigation will occur. The allowed activities are as follows:

_____ 1. One well and necessary appurtenances, including a pump and appropriately sized pump house, but not including a water storage tank (unless the water storage tank can be contained within the pump house), may be allowed on each _____ site in a buffer if all the following conditions are met:

_____ a. The pump house is a one-story building with a ground area of less than 220 _____ square feet; and

_____ b. The well is more than 75 feet deep; and

_____ c. For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is no less than fifty percent of the _____ buffer _____ widths established in the table in Section 14.162.070 A.; and

~~_____ d. Access to the well and pump house shall be by a pervious trail for pedestrian _____ traffic only, or, if necessary, by an unimproved access for a maintenance _____ vehicle.~~

~~_____ 2. Pervious trails and associated viewing platforms, provided that in the case of _____ Category I wetlands the minimum distance from the wetland edge is no less than _____ fifty percent of the buffer width established in the table in Section 14.162.070 A.~~

~~_____ 3. The placement of utility lines which do not require excavation, or utility poles, _____ in any part of a buffer for a Category II, III, or IV wetland. They may be placed _____ in a buffer for a Category I wetland, provided that the minimum distance from _____ the wetland edge is no less than fifty percent of the Category I buffer width _____ established in the table in Section 14.162.070 A.~~

~~_____ 4. Activities within that area of a buffer in which a direct line to the wetland is _____ obstructed by an existing substantial improvement such as an improved road or a _____ permanent structure, the presence of which significantly reduces the likely _____ impact of the proposed activity on the wetland.~~

~~_____ D. Reasonable Use Exception, Wetland Category I and II: Regulated activities in _____ Category I and II wetlands and/or buffers for Category I and II wetlands may be _____ allowed if, following a public hearing, the Hearing Examiner determines the _____ following criteria are met:~~

~~1. No reasonable use with less impact on the wetland is possible; and~~

~~-~~

~~2. There is no feasible on-site alternative to the proposed activities, including phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning and density considerations, that would allow a reasonable economic use with less adverse impacts to wetlands; and~~

~~-~~

~~3. The proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and existing contours, vegetation, fish and wildlife resources, and hydrological conditions; and~~

~~-~~

~~4. The disturbance of wetlands has been minimized by locating any necessary activities outside the wetland to the extent possible; and~~

~~-~~

~~5. The proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats; and~~

~~-~~

~~6. The proposed activities will not cause significant degradation of groundwater or surface water quality; and~~

~~-~~

~~7. The proposed activities comply with all state, local and federal laws, including, but not limited to, those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal; and~~

~~-~~

~~8. Any and all regulated activities in wetlands and buffers will be mitigated according to Section 14.162.090; and~~

~~-~~

9. There will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and
10. The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this Chapter.

E. Reasonable Use Provision, Categories III and IV Wetlands: If an applicant for regulated activity on a Category III or IV wetland and/or associated buffer cannot obtain permission through the procedures described in 14.162.080 A. and 14.162.080 C., the activity may be allowed if, following a public hearing, the Hearing Examiner determines the criteria of 14.162.080 D. are met.

14.162.090 Mitigation.

A. All activities in wetlands and/or buffers shall be mitigated according to this Section. Usually, mitigation is considered in order of preference; there may be circumstances when an alternative mitigation strategy is preferable.

The order of preference for mitigation is:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to reduce impacts;
3. The following types of mitigation (no order of preference):
 - a. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - b. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - c. Compensating for the impact by replacing or providing substitute resources or environments;
4. Monitoring the impact and compensation and taking appropriate corrective measures.
5. Mitigation for individual actions may include a combination of the above measures.

B. Regulated activities which occur in buffers, and which will not eliminate wetland habitat, shall be mitigated according to a mitigation plan approved by the Department. See Appendix C for specific requirements of this mitigation plan. Where environmental review is required, a threshold determination may not be made prior to Department review of the mitigation plan.

~~C. Compensatory mitigation shall be required for filling wetlands and for other regulated activities in wetlands, and shall meet the following minimum requirements:~~

- ~~1. A wetland specialist shall develop a compensatory mitigation plan that provides for construction, maintenance, and monitoring of any replacement wetlands;~~
- ~~2. The applicant and/or applicant's representatives shall demonstrate to the Department sufficient scientific expertise to carry out the compensation project;~~
- ~~3. The compensation area shall be provided with permanent protection and management to avoid further degradation and to provide for the long-term persistence of the compensation area as designed.~~
- ~~4. The compensatory mitigation plan shall be completed in two phases, a conceptual phase and a detailed phase.~~
 - ~~a. Conceptual Phase. The applicant shall submit to the Department a conceptual mitigation plan for compensatory mitigation. Where environmental review is required, the Department shall not make a threshold determination prior to Department review of the conceptual mitigation plan. See Appendix D for specific requirements of the conceptual mitigation plan.~~
 - ~~b. Detailed Phase. Following the Department's approval of the conceptual mitigation plan, the applicant shall submit a detailed mitigation plan for compensatory mitigation to the Department. See Appendix E for specific requirements of the detailed mitigation plan.~~
- ~~5. The detailed mitigation plan shall be signed by the wetland specialist to indicate that the plan is according to specifications determined by the wetland specialist. A signed original mitigation plan shall be submitted to the Department.~~
- ~~6. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and Department Director or designate, and recorded with the County Auditor. The agreement shall refer to all requirements for the mitigation project.~~
- ~~7. The mitigation project shall be completed according to a schedule agreed upon between the Department and the applicant.~~
- ~~8. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with provisions of this Chapter.~~
- ~~9. On completion of construction for the wetland mitigation project, the wetland specialist shall notify the Department. The Department will inspect and review the construction project prior to acceptance.~~

14.162.100 On-site Density Transfer.

A. Residential density may be transferred from a wetland to an area on the same site which is neither wetland nor buffer. Those portions of the wetland in which regulated activities are proposed to occur shall not be considered in calculating density transfer. Density transfer shall be determined as follows:

Percentage of site in wetland	Amount of Credit
0-15%	100%
>15-25%	75%
>25-50%	50%
>50-75%	35%
>75-85%	25%
>85-90%	10%
>90-100%	0%

B. Residential density may be transferred from a buffer to an area on the same site which is neither wetland nor buffer. Those portions of the buffer in which regulated activities are proposed to occur shall not be considered in calculating density transfer. Density transfer shall be determined as follows:

Percentage of site in buffer	Amount of Credit
0-10%	100%
>10-20%	90%
>20-30%	80%
>30-40%	70%
>40-50%	60%
>50-60%	50%
>60-70%	40%
>70-80%	30%
>80-90%	20%
>90-100%	10%

C. A request for on-site density transfer shall be reviewed as part of a Planned Development District (PDD) application. Residential density shall be equal to the number of dwelling units that can be produced on the site if the site were subdivided in terms of the minimum requirements of the underlying zone as evidenced by a preliminary plan sketch.

14.162.110 Transfer of Development Rights.

If a site contains a regulated wetland and/or buffer, a person may transfer residential development rights from the regulated wetland and/or buffer to another site or sites within The City jurisdiction. The transfer of development rights (TDR) shall meet the following criteria:

- A. The TDR must be associated with a complete Planned Development District (PDD) residential development application filed with the City for the receiving site(s). The TDR request shall be included in the application
- B. The Hearing Examiner shall consider the request for TDR at the public hearing for the land use proposal for the receiving site.
- C. To assure that the wetland is adequately protected, a restriction shall be placed on the deed of the sending property, which prohibits all regulated activities within the wetland and/or buffer. This restriction shall be required regardless of the number of dwelling units for which development rights are transferred. A memorandum of agreement (MOA) between the applicant and the Department shall be recorded with the Pierce County Auditor. The MOA shall refer to all deed restrictions and restrictions on activities in the wetland and/or buffer.
- D. If the wetland and/or buffer is degraded as a result of human or agricultural activity, the applicant may be required to enhance the wetland and/or buffer according to an enhancement plan approved by the Department.
- E. Except for required enhancement, the buffer and wetland shall remain in a natural condition. This shall be indicated by a note on the face of any final plat, final site plan, or other final approval for activity on the sending site. In the case of a formal subdivision, the wetland and buffer shall be placed in a separate tract.
- F. TDR shall not exceed the number of dwelling units which would be allowed in the wetland and/or buffer of the sending site according to the zoning

designation of the sending site, if there were no development restrictions tied to wetland areas. This number of dwelling units shall be equal to the number of dwelling units that could be produced on the wetland and/or buffer if the sending site were subdivided in terms of the minimum requirements of the underlying zone as evidenced by a preliminary plan sketch.

G. TDR may go to more than one receiving site; however, this shall not increase the total number of transferred dwelling units which are allowed.

H. The increased number of dwelling units on the receiving site(s) shall not be more than twenty five percent above the number of dwelling units allowed according to the zoning designation of the receiving site(s). The beginning number of dwelling units (that is, the allowed number prior to TDR) at the receiving site(s) shall be equal to the number of dwelling units that can be produced on the same site if the site were subdivided in terms of the minimum requirements of the underlying zone as evidenced by a preliminary plan sketch.

I. If on-site density transfer provisions of this Chapter have been previously applied to the sending site, the number of additional dwelling units allowed on the receiving site through TDR provisions shall be calculated as follows:

1. Calculate the increased number of dwelling units allowed on the receiving site, according to 14.162.110 H.

2. From this number, subtract the number of dwelling units which were previously transferred on-site.

J. TDR shall be allowed only if the land use proposal on the receiving site(s) is designed in such a way that the increased density:

1. Is consistent with any land use plan associated with the receiving site and with goals, purposes, and intents of the zoning designation of the receiving site; and

2. Is compatible with existing and likely future developments in the vicinity; and

3. Adequately addresses infrastructure, natural constraints and other constraints, and does not result in significant environmental impacts.

K. The TDR shall not be approved until final plat approval or other required final approval for the receiving site is granted by the City.

L. Provisions of this Section on transfer of development rights, as they apply to both.

~~14.162.120 One-family Dwellings Procedures and Reasonable Use Exemption.~~

An applicant may use the following procedure for construction of a one-family dwelling and regulated activities accessory to a one-family dwelling:

- A. Where the Department determines that a regulated wetland may be present within 150 feet of the proposed activity, the applicant shall select one of the following options:
1. The applicant shall provide the Department with a report prepared by a wetland specialist which recommends the appropriate wetland category and includes rationale for the recommendation. The Department will review and approve the wetland category and buffer as follows:
- | Wetland Category | Buffer |
|------------------|----------|
| I | 150 feet |
| II | 100 feet |
| III | 50 feet |
| IV | 25 feet |
2. Alternatively, the Department, upon request, shall determine the appropriate wetland category. The buffer width shall be according to the table in 14.162.220.
- B. The Department will determine whether the activity would intrude into the buffer, the wetland, or both.
1. If the Department determines that the proposed activity may intrude into the wetland and/or buffer, the applicant shall prepare a delineation report subject to approval by the Department; or
 2. If the Department determines that the proposed activity may intrude only into the buffer, the Department, upon request, shall delineate the wetland.
- C. Following approval of the delineation report or the Department's completion of the delineation, the applicant shall place permanent clearly visible markers on the site at the edge of the buffer. Placement of markers by a licensed surveyor is not required. No regulated activities shall occur within the wetland and/or buffer except as allowed in 14.162.220 Subsection D. Temporary intrusion into the buffer necessary for construction activities may be allowed if the buffer can be adequately restored.
- D. Construction of a one family dwelling and regulated activities accessory to a one family dwelling may be allowed:
1. In the buffer if the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated.
 2. In the wetland, after Department approval of the following reports. The reports shall be prepared by a wetland specialist obtained by the applicant.
 - a. A report which recommends the appropriate wetland category and includes rationale for the recommendation, unless the category has already been determined by the Department; and
 - b. A wetland delineation report, unless a delineation has already been approved by the Department; and

~~_____ c. A mitigation plan. The mitigation plan shall provide that all adverse impacts _____ to the wetland will be mitigated.~~

~~_____ **E. Reasonable Use Exception:** _____~~

~~_____ If strict application of this Section would not allow use of the property for a one family dwelling, the Hearing Examiner may approve use of the property for a one family dwelling. Following a public hearing, approval shall be granted if the following conditions are met:~~

~~_____ 1. The proposed activity will have only minor impacts to the wetland; and~~

~~_____ 2. The proposed activity will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, _____ or documented priority species or priority habitats; and~~

~~_____ 3. The proposed activity will not cause significant degradation of groundwater or _____ surface water quality; and~~

~~_____ 4. All adverse impacts to the wetland will be mitigated to the greatest extent possible; and~~

~~_____ 5. There will be no damage to public or private property and no threat to the health _____ or safety of people caused by the proposed activity; and~~

~~_____ 6. The inability to use the property for a one family dwelling is not the result of segregating or dividing the property after the effective date of this~~

~~Chapter.~~

~~14.162.130 New Agricultural Activities.~~

~~An applicant may use the following procedure to initiate agricultural activities:~~

~~A. Where the Department determines that a regulated wetland may be present within 150 feet of the proposed activity, the applicant shall select one of the following options:~~

~~1. The applicant shall provide the Department with a report prepared by a wetland specialist which recommends the appropriate wetland category and includes rationale for the recommendation. The Department will review and approve the wetland category and buffer as follows:~~

Wetland Category	Buffer
I	150 feet
II	100 feet
III	50 feet
IV	25 feet

~~2. Alternatively, the Department, upon request, shall determine the appropriate wetland category. The buffer width shall be according to the table in 14.162.130.~~

~~B. The Department will determine whether the activity would intrude into the buffer, the wetland, or both.~~

~~1. If the Department determines that the proposed activity may intrude into the wetland and/or buffer, the applicant shall prepare a delineation report subject to approval by the Department; or~~

~~2. If the Department determines that the proposed activity may intrude only into the buffer, the Department, upon request, shall delineate the wetland.~~

~~C. Following approval of the delineation report or the Department's completion of the delineation, the applicant shall place permanent, clearly visible markers on-site at the edge of the buffer. Placement of markers by a licensed surveyor is not required. No regulated activities shall occur within the wetland and/or buffer except as allowed in 14.162.130 D. Temporary intrusion into the buffer necessary for construction activities may be allowed if the buffer can be adequately restored.~~

~~Livestock shall be fenced from the wetland and buffer, unless requirements of 14.162.130 D. are met.~~

~~D. Agricultural activities may be initiated:~~

~~1. In a buffer, if the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated.~~

~~2. In the wetland after Department approval of the following reports, which shall be prepared by a wetland specialist obtained by the applicant:~~

~~a) A report which recommends the appropriate wetland category and includes rationale for the recommendation, unless the category has already been determined by the Department; and~~

~~b) A wetland delineation report, unless a delineation has already been approved by the Department; and~~

~~c) A Best Management Plan developed by the Pierce County Conservation District or U.S.D.A. Soil Conservation Service. A wetland specialist shall review the plan and specify mitigation for all impacts to wetlands, other than water quality impacts reviewed by the Conservation District or Soil Conservation Service; and~~

~~d) A report prepared by a wetland specialist which demonstrates that the proposed activity:~~

~~(1) Will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats;~~

~~(2) Will not cause significant degradation of groundwater or surface water quality; and~~

~~(3) Will not damage public or private property and will not threaten public health or safety.~~

~~14.162.135 Alternative Review Process, Corps of Engineers Section 404 Individual Permits:~~

~~A. The alternative review process outlined below will be used in cases where a Section 404 individual permit is required from the U.S. Army Corps of Engineers. (Refer to 33 CFR § 320.1, § 323.2(g), and § 325.5(b)(1).~~

~~1. The applicant shall notify the Department when the applicant applies for the Section 404 permit or contacts the Corps concerning a specific project. The applicant shall apprise the Department of the Corps' permitting process, including notifying the Department of all hearings or meetings scheduled to discuss the applicant's project, potential mitigation or approval. The review process of the Corps will substitute for the review process outlined in Section 14.162.140. The City participation in the Corps' review process does not constitute approval of the applicant's project by the City. The substantive provisions of this Chapter are still applicable and a wetland permit will be approved or denied by the Department~~

based upon those provisions. However, the Department shall consider the mitigation requirements as set forth by the commenting agencies during the Corps' review process and shall concur with that mitigation, if it is functionally equivalent with the requirements of this Chapter.

2. The applicant shall submit the information specified in Section 14.162.060 and 14.162.140 to the Department when filing for the Corps permit. The Department may also require the submittal of any additional information deemed necessary.

3. Notice of Application: A notice of application will be required as provided for in Section 14.162.140.

14.162.140 Wetland Application Procedure and Fees.

A. The Department shall, to the extent reasonable, consolidate the processing of related aspects of other the City regulatory programs which affect activities in wetlands, such as subdivision, site development, floodplain and environmentally sensitive areas, with the wetland approval process established herein so as to provide a timely and coordinated review process.

B. When the Department determines that a regulated wetland is on the site or may be within 150 feet of the site, an application containing the following shall be submitted to the Department:

1. The City Master Application;

2. Wetland Application;

3. Wetland Analysis Report;

4. Fees: Each applicable fee shall be payable at the time the applicant submits the document to which the fee applies. Site inspection fees shall be payable prior to the staff site visit.

C. **Notice.** Upon City acceptance of a completed application for Wetland Approval, notice of application shall be posted by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Department. The applicant shall verify by notarized affidavit to the Department that such notice was posted. Notice will be posted on a 1 1/2' x 2' waterproof sign. The sign shall be made of corrugated plastic to specifications provided by the City. If desired, a sign may be purchased from the City at a cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting road. When more than one road abuts the property, the sign(s) shall be easily visible from the road having the greatest traffic volume as determined by the Department. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major roadway entrance to the development as determined by the Department. The sign(s) shall be erected and maintained by the applicant for a minimum of thirty (30) days before a decision is rendered on the application, and shall be removed by the applicant within one (1) week following the decision by the Department.

D. ~~Notice on Title.~~ When the City determines that activities not exempt from this Chapter are proposed, the property owner shall file for record with the Pierce County Auditor a notice approved by the Department in a form substantially as set forth below. The notice shall provide notice in the public record of the presence of a wetland or buffer, the application of this Chapter to the property, and that limitations on actions in or affecting such wetlands and buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any land use proposal for the site.

Notice on title is not required for utility line easements on lands not owned by the jurisdiction conducting the regulated activity.

Form of notice:

~~WETLAND AND/OR WETLAND BUFFER NOTICE~~

~~Tax Parcel Number:~~ _____

~~Name:~~ _____

~~Address:~~ _____

~~Legal Description:~~ _____

~~NOTICE: This property contains wetlands or wetland buffers as defined by the City Code 14.162. Restrictions on use or alteration of the wetlands or wetland buffers may exist due to natural conditions of the property and resulting regulations.~~

~~Signature of owner~~ _____

~~Date:~~ _____

~~-(NOTARY ACKNOWLEDGMENT)~~

E. ~~Wetland Tract.~~

1. ~~Prior to final approval of any wetland application, the part of the wetland and/or buffer which is on the site shall be placed in a separate wetland tract or tracts, protective easement, public or private land trust dedication, or similarly preserved through an appropriate permanent protective mechanism as determined by the City. All wetland tracts, protective easements, land trust dedications and other similarly preserved areas shall remain undeveloped in perpetuity, except as they may be allowed to be altered pursuant to this Chapter.~~
2. ~~Prior to final approval of any wetland application, the common boundary between a wetland tract, protective easement, land trust dedication, or other similarly preserved area and the adjacent land shall be permanently identified with permanent signs. Sign locations, wording, and size and design specifications shall be as required by the Department.~~
3. ~~At any time after a wetland tract, protective easement, land trust dedication, or other similarly preserved area has been established, the owner may submit a delineation report to the Department. If the Department determines that a boundary change has occurred, or that~~

~~a wetland no longer exists, the wetland tract, protective easement, land trust dedication, or other similarly preserved area may be altered or eliminated, as appropriate. If the Department determines that wetland boundaries have changed or that a wetland has been eliminated due wholly or in part to illegal activity, a change or elimination of wetland tract, protective easement, land trust dedication, or other similarly preserved area shall not be permitted.~~

- ~~4. A wetland tract, protective easement, land trust dedication, or other similarly preserved area is not required for utility lines in easements on lands not owned by the jurisdiction conducting the regulated activity.~~

~~F. **Review and Approval.** A Wetland Application shall be reviewed by the Department. Approval shall be granted upon a determination that the wetland analysis report and mitigation plan meet all applicable requirements of this Chapter, and that the monitoring program and contingency plan are tied to an acceptable financial guarantee to assure that the requirements will be complied with.~~

~~G. **Expiration.** Approvals shall be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the Department. An extension of an original approval may be granted upon submittal of a written request to the Department prior to expiration. Prior to the granting of an extension, the Department may require updated studies if, in its judgment, the original intent of the approval is altered or enlarged by the renewal, if the circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original approval.~~

~~14.162.150 Reconsideration and Appeal Procedures.~~

~~Requests for Reconsideration and Appeals of a decision issued under this Chapter shall be considered by the City according to procedures in the City Zoning Code~~

~~14.162.160 Wetland Variances.~~

- ~~A. Wetland Variance Applications shall be considered by the City according to Variance procedures in the City Zoning Code, except that required criteria for a Wetland Variance shall be as set forth in Section 14.162.160 C.~~
- ~~B. To apply for a Wetland Variance the applicant shall submit a complete Wetland Variance Application. The Variance Application shall include a City Master Application, site plan, cover letter addressing the required criteria for a variance, and appropriate fees.~~
- ~~C. The Hearing Examiner shall have the authority to grant a Wetland Variance from the requirements of this Chapter, when, in the opinion of the Examiner, the following criteria have been met.~~
- ~~1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties; and~~

- ~~2. The Wetland Variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and~~
- ~~-~~
- ~~3. Granting the Wetland Variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and~~
- ~~-~~
- ~~4. Granting the Wetland Variance will not violate, abrogate or ignore the goals, objectives or policies of the City Wetland Management Policies.~~

~~———— D. When granting a Wetland Variance, the Examiner may attach specific conditions to the Wetland Variance which will serve to meet the goals, objectives and policies of the City Wetland Management Policies.~~

~~14.162.170~~ **Suspension and Revocation.**

~~In addition to other penalties provided for elsewhere, the Department may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.~~

~~14.162.175~~ **Financial Guarantees**

~~The City shall require an applicant to submit a financial guarantee to the City to guarantee any performance, mitigation or monitoring required as a condition of permit approval. The permit would not be granted until the financial guarantee is received by the Department.~~

~~_____ A. Financial Guarantees required under this Chapter shall:~~

- ~~1. be in addition to the site development construction guarantee required by the City's Site Development Regulations, Section 5.00(A);~~
- ~~-~~
- ~~2. be submitted on financial guarantee forms found in the City's Site Development Regulations Appendix;~~
- ~~-~~
- ~~3. be 125 percent of the estimate of the cost of mitigation or monitoring to allow for inflation and administration should the City have to complete the mitigation or monitoring;~~
- ~~-~~
- ~~4. be released by the City only when:~~

~~_____ a. City officials have inspected the site(s) and the applicant's appropriate technical professional has provided written confirmation that the performance, mitigation, or monitoring requirements have been met.~~

~~14.162.180~~ **Compliance Provisions:**

~~_____ A. The Department shall have authority to enforce this Chapter, any rule or regulation adopted, and any permit, order or approval issued pursuant to this Chapter, against any violation or threatened violation thereof. The Department is authorized to issue civil infraction citations and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Chapter, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this Chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.~~

~~_____ B. Enforcement actions shall include civil infractions, administrative orders, and actions for damages and restoration.~~

- ~~1. The Department may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of regulated wetlands or buffers which are inconsistent with this Chapter.~~
- ~~2. The Department may serve a cease and desist order when any person makes or partakes in any use of land, development or any activity on regulated wetlands and/or buffers in violation of this Chapter. The order shall include the following:
 - ~~a. A description of the specific nature, extent and time of violation. The order may include the damage or potential damage resulting from the violation.~~
 - ~~b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order.~~
 - ~~c. Effective date. The cease and desist order issued under this Section shall become effective immediately upon receipt by the person to whom the order is directed.~~
 - ~~d. Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.~~
 - ~~e. The order may include specific corrective measures to be taken to mitigate environmental damage.~~
 - ~~f. The order shall state that a hearing may be requested by an affected party by sending a written request for a hearing to the Hearing Examiner within ten (10) days of the receipt of said order.~~~~
- ~~3. Any person who undertakes any activity within a regulated wetland or buffer without first obtaining an approval required by this Chapter, or any person who violates one or more conditions of any approval required by this Chapter or of any cease and desist order issued under this Chapter shall be subject to a Class 1 civil infraction citation. Each violation and, in the case of a continuing violation, each violation and each day of activity without a required approval shall be a separate and distinct violation. The civil penalty shall be assessed at a rate of two hundred fifty dollars per day per violation. The penalty provided shall be appealable as provided in fee Resolution.~~
- ~~4. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation of this Chapter.~~
- ~~5. Orders and penalties issued pursuant to this Section may be appealed as provided for by this Chapter.~~
- ~~6. Application for remission or mitigation: Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the Department for remission or mitigation of such penalty. Upon receipt of the application, the Department may remit or mitigate the penalty only~~

~~upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.~~

- ~~7. Any person found to have violated any provision of this Chapter or who knowingly makes a false statement, representation or certification in any application, record or other document filed or required to be maintained under this Chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this Chapter or pursuant to a Wetland Application approval, shall be guilty of a misdemeanor.~~

~~14.162.185—Nonconforming Uses:~~

~~An established use or existing structure that was lawfully permitted prior to adoption of this Chapter, but which is not in compliance with this Chapter, may continue subject to the following:~~

- ~~A. Nonconforming uses shall not be expanded, or changed in any way that increases the nonconformity without a permit issued pursuant to the provisions of this Chapter;~~
- ~~B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit issued pursuant to the provisions of this Chapter, except one family dwellings and accessory structures may be expanded or altered as provided in Section 14.162.050 I.;~~
- ~~C. Activities or uses which are discontinued for twelve (12) consecutive months shall be allowed to resume only if they are in compliance with this Chapter; and~~
- ~~D. Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction is commenced within one (1) year of such damage and is substantially completed within eighteen (18) months of the date such damage occurred. The reconstruction or restoration shall not serve to expand, enlarge or increase the nonconformity.~~

~~14.162.190Administrative Procedures and Technical Criteria:~~

~~The Department shall develop administrative procedures, including technical requirements, to guide decision making in implementing provisions of this Chapter. In particular, the Department shall establish procedures for determining the category of specific wetlands. In so doing, the Department shall solicit the views of wetland specialists, ecologists, developers and interested citizens. Administrative procedures can be modified from time to time, and can include material by reference to state or federal criteria subject to notice to the public and consideration of public views and input. Administrative procedures shall be made available to the public upon request, and shall be consistent with the provisions of this Chapter. Upon request, the Department shall provide The City Council with copies of all administrative procedures, including modifications, to ensure consistency with the provisions of this Chapter.~~

~~14.162.195Assessment Relief:~~

- ~~———— A. An owner of agricultural land, timberland, or open space desiring current use classification under Chapter 84.34 RCW may file for such current use classification as provided for in Chapter 18.35.050 of the City Zoning Code.~~
- ~~———— B. The Department shall notify the Assessor-Treasurer's Office of any application of this Chapter which results in building restrictions on a particular site.~~
- ~~———— C. The Assessor-Treasurer's Office shall consider wetlands delineation under this Chapter in determining the fair market value of land. Any owner of an undeveloped wetland and/or buffer which has been placed in a separate wetland tract or tracts, protective easement, public or private land trust dedication, or other similarly preserved areas shall have that portion of land assessed consistent with those restrictions.~~

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~~14.162.210~~ **Appendices A through E.**

APPENDIX A

WETLAND CATEGORIES

Wetland categories shall be designated according to the following criteria:

~~_____~~ **A. Category I:**

~~_____~~

- ~~_____~~ 1. Documented habitat for endangered or threatened plant, fish or animal species or for potentially extirpated plant species recognized by state or federal agencies; or
- ~~_____~~ 2. High quality native wetland communities, including documented Natural Heritage wetland sites and sites which qualify as a Natural Heritage wetland; or
- ~~_____~~ 3. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps; or
- ~~_____~~ 4. Wetlands of exceptional local significance, as designated by separate City Ordinance.

~~_____~~ **B. Category II:**

- ~~_____~~ 1. Regulated wetlands that do not contain features outlined in category I; and
- ~~_____~~ 2. Documented habitats for sensitive plants or fish species recognized by federal or state agencies; or
- ~~_____~~ 3. Documented priority habitats and species recognized by state agencies; or
- ~~_____~~ 4. Regionally rare wetland communities which are not high quality, but which have irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps; or
- ~~_____~~ 5. Wetland types with significant functions which may not be adequately replicated through creation or restoration. These wetlands may be demonstrated by the following characteristics:
 - ~~_____~~ a. Significant peat systems; or
 - ~~_____~~ b. Forested swamps that have three canopy layers, excluding monotypic stands of red alder averaging eight inches diameter or less at breast height; or
 - ~~_____~~ c. Significant spring fed systems; or
- ~~_____~~ 6. Wetlands with significant habitat value based on diversity and size, including wetlands which are:

- ~~a. Ten acres or greater in size; and two or more wetland classes together with open water at any time during a normal year; or~~
- ~~b. Ten acres or greater in size; and three or more wetland classes; and five or more subclasses of vegetation in a dispersed pattern; or~~
- ~~c. Five acres or greater in size; and forty to sixty percent open water at any time during a normal year; and two or more subclasses of vegetation in a dispersed pattern; or~~
- ~~7. Regulated wetlands which are contiguous with both year-round and intermittent salmonid fish-bearing waters; or~~
- ~~8. Wetlands with significant use by fish and wildlife.~~
- ~~C. Category III: Regulated wetlands that do not contain features outlined in category I, II or IV.~~
- ~~D. Category IV:~~
 - ~~1. Regulated wetlands which do not meet the criteria of a category I or II wetland; and~~
 - ~~2. Hydrologically isolated wetlands that are less than or equal to one acre in size, and have only one wetland class, and have only one dominant plant species (monotypic vegetation).~~
- ~~E. The Category of a wetland shall not be changed to recognize illegal modifications to the wetland.~~

APPENDIX B

~~INFORMATION TO BE INCLUDED IN A WETLAND ANALYSIS REPORT~~

~~A wetland analysis report shall include the following:~~

~~A. Vicinity map;~~

~~B. When available, a copy of a National Wetland Inventory Map (U.S. Fish and Wildlife Service) and/or a City Wetland Inventory Map identifying the wetlands on or adjacent to the site;~~

~~C. A site map setting forth all of the following:~~

~~1. Surveyed wetland boundaries based upon a delineation by a wetlands specialist;~~

~~2. Site boundary property lines and roads;~~

~~3. Internal property lines, rights of way, easements, etc.;~~

~~4. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;~~

~~5. Contours at the smallest readily available intervals, preferably at 2 foot intervals;~~

~~6. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site area;~~

~~7. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;~~

~~8. The Department may require an air photo with overlays displaying the site boundaries and wetland delineation.~~

~~D. A report which includes the following:~~

~~1. Location information (legal description, parcel number and address);~~

~~2. Delineation report. The wetland boundaries on the site established by the delineation shall be staked and flagged in the field. If the wetland extends outside the site, the delineation report shall discuss all wetland areas within 150 feet of the site, but need only delineate those wetland boundaries within the site;~~

~~3. General site conditions including topography, acreage, and surface areas of all wetlands identified in the City Wetland Atlas and water bodies within one quarter mile of the subject wetland(s);~~

- ~~4. Hydrological analysis, including topography, of existing surface and known significant sub-surface flows into and out of the subject wetland(s);~~
- ~~5. Analysis of functional values of existing wetlands, including vegetative, faunal, and hydrologic conditions;~~
- ~~E. A summary of proposed activity and potential impacts to the wetland(s);~~
- ~~F. Recommended wetland category, including rationale for the recommendation;~~
- ~~G. Recommended buffer boundaries, including rationale for boundary locations;~~
- ~~H. Proposed on-site residential density transfer from wetlands and/or buffers to upland areas;~~
- ~~I. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.~~

~~APPENDIX G~~

~~MITIGATION PLAN FOR REGULATED ACTIVITIES IN BUFFERS~~

~~A mitigation plan for regulated activities in buffers should contain the following components:~~

- ~~_____ A. General goals of the mitigation plan;~~
- ~~_____ B. Approximated site topography before and after alteration;~~
- ~~_____ C. Location of proposed mitigation area;~~
- ~~_____ D. General hydrologic patterns on the site before and after construction;~~
- ~~_____ E. General plant selection and justification, planting instructions, and approximate planting sequencing and schedule;~~
- ~~_____ F. A maintenance plan;~~
- ~~_____ G. A monitoring and contingency plan.~~

~~Upon Department review and approval of this plan, it shall become the detailed plan.~~

~~Where environmental review is required, a threshold determination may not be made prior to submittal of a plan which meets Department approval.~~

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~~APPENDIX D~~

~~COMPENSATORY MITIGATION PLAN FOR REGULATED ACTIVITIES IN WETLANDS CONCEPTUAL PHASE~~

~~The conceptual phase of a mitigation plan for regulated activities in wetlands should include the following components:~~

- ~~A. General goals of the compensatory mitigation plan, including an overall goal of no net loss of wetland function and acreage;~~
 - ~~B. A review of literature or experience to date in restoring, enhancing, or creating the type of wetland proposed;~~
 - ~~C. Approximated site topography before and after construction;~~
 - ~~D. Location of proposed wetland mitigation area;~~
 - ~~E. General hydrologic patterns on the site before and after construction;~~
 - ~~F. Nature of mitigation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;~~
 - ~~G. A conceptual maintenance plan;~~
 - ~~H. Conceptual monitoring and contingency plan.~~
- ~~Once the Department approves the conceptual mitigation plan, a detailed mitigation plan shall be submitted. Due to the complex nature of creating and restoring wetlands, very detailed plans are needed. See Appendix E for further information on detailed mitigation plans.~~

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~~APPENDIX E~~

~~COMPENSATORY MITIGATION PLAN FOR REGULATED ACTIVITIES IN WETLANDS -- DETAILED PHASE~~

~~I. OUTLINE OF DETAILED MITIGATION PLAN~~

- ~~A. The detailed mitigation plan shall contain the following:~~
- ~~1. Site specific, quantifiable criteria for evaluating whether or not the goals for the proposed compensation are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria. See Subsection III. below for specific performance standards.~~
 - ~~2. Text and map of the existing condition of the proposed compensation area, including:~~
 - ~~a. Existing vegetation community analysis;~~
 - ~~b. Hydrological analysis, including topography, of existing surface and significant sub-surface flows into and out of the area in question;~~
 - ~~c. Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations;~~
 - ~~d. Detailed description of flora and fauna existing on the site;~~
 - ~~e. Description of existing site conditions in relation to historic conditions for those sites which have been recently altered or degraded.~~
 - ~~3. Text and map of the proposed changes to the compensation area, including:~~
 - ~~a. Relationship of the project to the watershed and existing water bodies;~~
 - ~~b. Topography, using one foot contour intervals;~~
 - ~~c. Water level data, including depth and duration of seasonally high water table;~~
 - ~~d. Water flow patterns;~~
 - ~~e. Grading, filling and excavation, including a description of imported soils;~~
 - ~~f. Irrigation requirements;~~
 - ~~g. Water pollution mitigation measures during construction;~~

- ~~h. Aerial coverage of planted areas to open water areas (if any open water is to be present);~~
- ~~i. Appropriate buffers.~~
- ~~4. Detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.~~
- ~~5. Landscape plan designed by a registered landscape architect working with a wetland specialist, describing what will be planted where and when. The landscape plan shall include the following:~~
 - ~~a. Soils and substrate characteristics;~~
 - ~~b. Specification of substrate stockpiling techniques;~~
 - ~~c. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements;~~
 - ~~d. Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from licensed regional nurseries, or from wetlands on site which are part of the mitigation plan.~~
- ~~6. Schedule showing dates for beginning and completing the mitigation project, including a sequence of construction activities.~~
- ~~7. Monitoring and maintenance plan which includes the following:~~
 - ~~a. Specification of procedures for monitoring and site maintenance; and~~
 - ~~b. Schedule for submitting monitoring reports.~~
- ~~8. Contingency plan, consistent with Subsection IV. below.~~
- ~~9. Detailed budget for implementing the mitigation plan, including monitoring, maintenance and contingency phases.~~
- ~~10. Financial guarantee for the work to be performed as planned and approved.~~

~~II. LOCATION CRITERIA~~

~~In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:~~

- ~~A. Compensatory mitigation shall be provided on-site, except where the applicant demonstrates that on-site mitigation is not scientifically feasible or practical due to physical features of the site.~~

- ~~_____ B. When compensatory mitigation cannot be provided on-site, it shall be provided in the immediate vicinity of and within the same watershed as the regulated activity.~~
- ~~_____ C. Whether occurring on-site or off-site, the mitigation project shall occur near an adequate water supply (e.g., river, stream, ground, sheet flow) with a hydrologic connection to the wetland to ensure successful wetland creation, enhancement, and/or restoration.~~

~~III. MITIGATION PERFORMANCE STANDARDS~~

- ~~_____ A. When regulated activities occur in wetlands, the applicant shall restore, create, or enhance equivalent areas of wetlands. Equivalent areas shall be determined according to acreage, functional value, type, location, time factors, and projected success. No overall net losses shall occur in wetland acreage, functions and/or values, and any restored, created, or enhanced wetland shall be as persistent as the wetland it replaces.~~
- ~~_____ B. When an applicant proposes to alter or eliminate wetland, the applicant shall replace acreage at the following ratios:~~
 - ~~_____ Category I: _____ 3:1 (acreage replacement: acreage lost)~~
 - ~~_____ Category II and III: _____~~
 - ~~_____ Forested Class: _____ 2.0:1~~
 - ~~_____ Scrub/Shrub Class: _____ 1.5:1~~
 - ~~_____ Emergent Class: _____ 1.5:1~~
 - ~~_____ Open water: _____ 1.0:1~~
 - ~~_____ Category IV: _____ 1.0:1~~

- ~~C. Ratios provided are for proposed projects with on-site, in-kind replacement which occurs prior to regulated activities on the site. The Department may increase the ratios under the following circumstances:~~
 - ~~1. Uncertainty as to the probable success of the proposed restoration or creation; or~~
 - ~~2. Significant period of time between destruction and replication of wetland functions; or~~
 - ~~3. Projected losses in wetland functional value; or~~
 - ~~4. Off site and/or out of kind compensation.~~
- ~~D. The Department may allow the minimum acreage replacement ratio to be decreased if the applicant provides findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value results from the decreased ratio. In no case shall the Department approve a ratio less than 1:1.~~
- ~~E. In the case of Category II, III and IV wetlands, the replacement ratio may be decreased to a ratio of less than 1:1, if, following a public hearing, the Hearing Examiner determines the following:~~
 - ~~1. A replacement ratio of greater than 1:1 is either not feasible on-site or would be likely to result in substantial degradation of other natural features; and~~
 - ~~2. The mitigation plan shows that a net increase in wetland functional values will result from the mitigation; and~~
 - ~~3. The mitigation is completed, and then monitored by the Department for one year prior to the issuance of permits. If, after one year of monitoring, the Department is not satisfied that the anticipated final outcome of the mitigation plan will be met, modifications to the mitigation plan and further monitoring may be required. When the Department is satisfied that the mitigation will be successful, permits will be issued.~~
- ~~F. In-kind compensation shall be provided except where the applicant demonstrates that:~~
 - ~~1. Greater functional and habitat values can be achieved through out-of-kind mitigation; and~~
 - ~~2. The wetland system is already significantly degraded; or~~
 - ~~3. Problems such as the presence of exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation infeasible; or~~
 - ~~4. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types).~~

- ~~G. Detailed performance standards for the mitigation plan shall include the following:~~
- ~~1. Use only plants indigenous to Pierce County (not introduced or exotic species);~~
 - ~~2. Use plants appropriate to the depth of water at which they will be planted;~~
 - ~~3. Use plants available from local sources;~~
 - ~~4. Use plant species high in food and cover value for fish and wildlife;~~
 - ~~5. Plant mostly perennial species;~~
 - ~~6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;~~
 - ~~7. Water depth is not to exceed 6.5 feet (2 meters);~~
 - ~~8. The grade or slope that water flows through the wetland is not to exceed 6 percent;~~
 - ~~9. Slopes within the wetland and buffer should not be steeper than 3:1 (horizontal to vertical);~~
 - ~~10. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) materials;~~
 - ~~11. Planting densities and placement of plants shall be shown on the design plans;~~
 - ~~12. The wetland should not contain more than 60 percent open water as measured at the seasonal high water mark;~~
 - ~~13. Stockpiling shall be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;~~
 - ~~14. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;~~
 - ~~15. Apply controlled release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process), and only to the extent that the release would be conducted in an environmentally sound manner;~~
 - ~~16. Install an irrigation system, if necessary, for initial establishment period;~~
 - ~~17. If impacts to natural wetland functional values can be fully mitigated, capacity of the wetland to store surface water should be equal to surface water storage capacity prior to the proposed activity;~~

- ~~18. If impacts to natural wetland functional values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to such ability prior to the proposed activity;~~
- ~~19. If impacts to natural wetland functional values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to such functions prior to the proposed activity;~~
- ~~20. A biofiltration system to remove pollutants from surface water may be necessary. This system may include grass-lined swales, sedimentation ponds, and other facilities. The draft Puget Sound Stormwater Management Manual, issued by the Department of Ecology in June 1990, or updates of that document, may serve as a guideline for system design.~~

~~IV. MONITORING PROGRAM AND CONTINGENCY PLAN~~

- ~~——— A. A contingency plan shall be established for compensation in the event the mitigation project is inadequate or fails. A financial guarantee on a form acceptable to the City is required for the duration of the monitoring period, and the guarantee plus any accrued interest will be released by the City when the required mitigation and monitoring are completed. To determine the amount of the financial guarantee, an estimate shall be submitted to the City detailing the work to be accomplished and the cost thereof. The estimate shall be based on current costs. The City will review the estimate and, if acceptable, will establish the financial guarantee at 125 percent of the estimate to allow for inflation and administration expenses should the City have to complete the project.~~
- ~~——— B. Requirements of the monitoring program and contingency plan are as follows:~~
 - ~~——— 1. During monitoring, use scientific procedures for establishing the success or failure of the project.~~
 - ~~——— 2. To determine vegetative success, permanent sampling points shall be established.~~
 - ~~——— 3. Vegetative success equals 80 percent survival of planted trees, shrubs and cover of desirable understory or emergent species through the monitoring period.~~
 - ~~——— 4. Submit monitoring reports prepared by a wetland specialist on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, according to the following schedule:~~
 - ~~——— a. At completion of construction of mitigation project.~~
 - ~~——— b. 30 days after completion.~~
 - ~~——— c. Early in the first growing season after construction.~~
 - ~~——— d. End of the first growing season after construction.~~
 - ~~——— e. Twice the second year.~~
 - ~~——— f. Annually after the second year.~~
 - ~~——— 5. Monitor a minimum of three growing seasons, with the time period depending on the complexity of the wetland system.~~
 - ~~——— 6. Correct for failures in the mitigation project.~~
 - ~~——— 7. Replace dead or undesirable vegetation with appropriate plantings.~~
 - ~~——— 8. Repair damages caused by erosion, settling, or other geomorphological processes.~~

- ~~_____ 9. If necessary, redesign mitigation project and implement the new design.~~
- ~~_____ 10. Correction procedures shall be approved by a wetland specialist and the Department Director or designate.~~

~~_____~~
~~14.162.220 Severability.~~

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected. _____~~

~~_____~~

~~Chapter 14.166~~

~~MINERAL RESOURCE LANDS~~

Sections:

~~14.166.010 Purpose.~~

~~14.166.020 Definitions.~~

~~14.166.030 Applicability.~~

~~14.166.040 Title Notification.~~

~~14.166.050 Plat Notification.~~

~~14.166.060 Regulated Activities Notification.~~

~~14.166.070 Severability.~~

~~14.166.010 Purpose.~~

~~The purpose of this Chapter is to promote the conservation of mineral resource lands through inclusion of known deposits of minerals and materials; to assure that undeveloped mineral and material resources will not be forever lost by prior development of the land for other purposes; and to allow for the necessary processing to convert such minerals and materials to marketable products.~~

~~14.166.020 Definitions.~~

- ~~A. "Minerals" include gravel, sand, and valuable metallic substances.~~
- ~~B. "Mineral resource lands" means lands primarily devoted to the extraction of minerals or that have known or potential long term commercial significance for the extraction of minerals.~~

~~14.166.030 Applicability.~~

- ~~A. General. Mineral resource lands are lands that have long term significance for the extraction of minerals.~~

~~B. Classification.~~

~~1. Any area under this Chapter presently operating under a valid Washington State Department of Natural Resources (DNR) surface mining permit.~~

~~2. Any other area shall be classified Mineral Resource Lands when:~~

- ~~a. a surface mining permit is granted by the DNR; and~~
- ~~b. an Unclassified Use Permit is granted by the City of Lakewood, pursuant to the City Zoning Code, provided;~~

~~1. The site does not contain prime agricultural soils, and~~

~~2. the site is not a registered or designated historic or archeological site, and~~

~~3. the site is not within a Shoreline of the State or State-wide Significance designated Natural.~~

~~14.166.040~~ Title Notification:

The owner of any site within this designation, for which an application for a regulated activity is submitted, shall record a title notice with the Pierce County Auditor. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.

MINERAL RESOURCE LANDS AREA TITLE NOTIFICATION

Parcel Number: _____

Parcel Address: _____

Notice: This parcel lies within an area of land designated mineral resource lands by the City. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction operations.

Signature of Owner(s)

date

(NOTARY ACKNOWLEDGMENT)

~~14.166.050~~Plat Notification:

~~The owner of any site within this overlay district, on which a Large Lot, Short Subdivision, or Formal Subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.~~

~~MINERAL RESOURCE LANDS AREA PLAT NOTIFICATION~~

~~———— This property lies within an area of land designated mineral resource lands by the City. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.~~

~~14.166.060~~Regulated Activities Notification:

~~The Department shall require that all permits issued for regulated activities, as defined in Section 14.142.020, within this designation contain a notice as set forth below:~~

~~REGULATED ACTIVITIES NOTIFICATION~~

~~This property lies within an area of land designated mineral resource lands by the City. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals and extraction of minerals which occasionally generates dust, smoke, noise, and odor. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.~~

~~14.166.070~~Severability:

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation of the application of the provision to other persons or circumstances shall not be affected.~~

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Chapter 14.170

~~PROPERTY ADJACENT TO DESIGNATED RESOURCE LANDS~~

Sections:

~~14.170.010 Purpose:~~

~~14.170.020 Definitions:~~

~~14.170.030 Applicability:~~

~~14.170.040 Title Notification:~~

~~14.170.050 Plat Notification:~~

~~14.170.060 Regulated Activities Notification:~~

~~14.170.070 Severability:~~

~~14.170.010 Purpose:~~

The purpose of this Chapter is to conserve resource lands by limiting the encroachment of incompatible development from designated resource lands.

~~14.170.020 Definitions:~~

~~A. "Adjacent" means within a radius of 300 feet from the exterior boundaries of designated resource land.~~

~~B. "Resource lands" means lands designated pursuant to Chapter 14.166 of the City Code as mineral resource lands.~~

~~14.170.030 Applicability:~~

~~A. General:~~

~~14.170.040 Title Notification:~~

The owner of any site within 300 feet of lands designated resource lands, for which an application for a regulated activity is submitted, shall record a title notice with the Pierce County Auditor. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below:

~~PROPERTY ADJACENT TO RESOURCE LANDS AREA TITLE NOTIFICATION~~

~~Parcel Number: _____~~

~~Parcel Address: _____~~

~~NOTICE: This parcel lies within 300 feet of land designated resource lands by the City. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.~~

~~_____
Signature of Owner(s)~~

~~_____
date~~

~~(NOTARY ACKNOWLEDGMENT)~~

~~14.170.050 Plat Notification:~~

~~The owner of any site within 300 feet of land designated as resource lands, on which a Large Lot, Short Subdivision, or Formal Subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below:~~

~~PROPERTY ADJACENT TO RESOURCE LANDS AREA PLAT NOTIFICATION~~

~~—This property lies within 300 feet of land designated resource lands by the
—— City. A variety of commercial and industrial activities occur in the area
that —— may be inconvenient or cause discomfort to area residents. This
may arise —— from the use of chemicals; or from spraying or extraction,
which occasionally —— generates dust, smoke, noise, and odor. The
City has established resource —— uses —— as
priority uses on productive resource lands, and residents of adjacent ——
—property should be prepared to accept such inconveniences or discomfort ——
—— from normal, necessary commercial resource lands operations.~~

~~14.170.060 Regulated Activities Notification.~~

~~The Department shall require that permits issued for regulated activities, as defined in 14.142.020, within 300 feet of lands designated as resource lands contain a notice as set forth below.~~

REGULATED ACTIVITIES NOTIFICATION

~~———— This property lies within 300 feet of land designated resource lands by the City. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.~~

~~14.170.070 Severability.~~

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this regulation of the application of the provision to other persons or circumstances shall not be affected.~~

Section 3. That new Chapters 14A.142, 14A.146, 14A.150, 14A.154, 14A.158, 14A.162, 14A.165 and 14A.170 are hereby adopted as follows:

Chapter 14A.142

CRITICAL AREAS AND NATURAL RESOURCE LANDS AUTHORITY, INTENT, AND GENERAL PROVISIONS

Sections:

14A.142.010 Authority and Title.

14A.142.020 Intent.

14A.142.030 Interpretation.

14A.142.040 Applicability and Mapping.

14A.142.050 Permitted Uses.

14A.142.060 Regulated Uses/Activities.

14A.142.070 Exemptions.

14A.142.080 Reasonable Use Exception.

14A.142.090 Reasonable Use Exception And Modification Of Critical Area
Requirements For Individual Single-Family Residences

14A.142.100 Process.

14A.142.110 Variances.

14A.142.120 Current Use Assessment.

14A.142.130 Compliance Provisions.

14A.142.140 Appeal Procedures.

14A.142.150 Financial Guarantees

14A.142.160 Fees.

14A.142.170 Title and Plat Notification.

14A.142.180 Nonconforming Uses.

14A.142.190 Administrative Procedures and Technical Criteria.

14A.142.200 Severability.

14A.142.010 Authority and Title.

This Title (Lakewood Municipal Code Section 14A.142 through 14A.165) is established pursuant to the requirements of the Growth Management Act (RCW 36.70A.060) and the State Environmental Protection Act (RCW 43.21C). This Title shall be known as the "Critical Areas and Natural Resource Lands Regulations"

14A.142.020 Intent.

It is the intent of the Critical Areas and Resource Lands Regulations to:

- A. Designate and protect critical areas and natural resource lands, including wetlands, critical aquifer recharge areas, fish and wildlife habitat areas, geologically hazardous areas, flood hazard areas, and mineral resource lands.
- B. Protect the natural environment, including air and water, to preserve the community's high quality of life.
- C. Protect unique, fragile and valuable elements of the environment, including fish and wildlife habitat; including suitable habitats to maintain native fish and wildlife species within their natural geographic distribution so that isolated sub-populations are not created.
- D. Protect the public against losses from:
 - Costs of public emergency rescue and relief operations where the causes are avoidable.
 - Degradation of the natural environment and the expense associated with repair or replacement.
- E. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides, steep slope failures, erosion, seismic events, or flooding.
- F. Avoid, minimize and mitigate for impacts arising from land development and other activities affecting critical areas to maintain their ecological functions and values including water quality, flood attenuation, habitat, recreation, education, and cultural preservation.
- G. Provide the public with sufficient information and notice of potential risks associated with developing in and adjacent to critical areas.
- H. Implement the goals and requirements of the Growth Management Act and the Lakewood Comprehensive Plan.

14A.142.030 Interpretation.

In the interpretation and application of this Title, all provisions shall be:

- A. Considered the minimum necessary;

- B. Liberally construed to serve the purposes of this Title; and,
- C. Deemed neither to limit nor repeal any other powers under state statute.

14A.142.040 Applicability and Mapping.

A. Applicability.

This Title shall apply to all lands, land uses and development activity in the City which are designated as Critical Areas or Natural Resource Lands by the City, including wetlands. Properties containing critical areas or natural resource lands are subject to this Title. When the requirements of this Title are more stringent than those of other City codes and regulations, the requirements of this Title shall apply.

Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this Title.

B. Mapping.

Maps may be developed and maintained by the City which show the general location of critical areas for informational purposes. The actual presence of critical areas and the applicability of these regulations shall be determined by the classification criteria established for each critical area.

14A.142.050 Permitted Uses.

Uses permitted on properties designated as critical areas or natural resource lands shall be the same as those permitted in the zone classification shown in the City's Land use and Development Code unless specifically prohibited by this Title.

14A.142.060 Regulated Uses/Activities.

- A. Unless the requirements of this Title are met, the City shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including but not limited to the following: building permit, commercial or residential; binding site plan; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.
- B. Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other Federal, State, or local law or regulation. Requirements include but are not limited to those of the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, and the Washington Department of Ecology, which must be met prior to commencing

activities affecting wetlands, except as addressed in Section 14A.162.130 regarding Corps of Engineers Section 404 Individual Permits.

C. The following activities within a critical area and/or buffer, unless exempted by Section 14A.142.070, shall be regulated:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
2. Dumping, discharging or filling;
3. Draining, flooding or disturbing the water level or water table. In addition, an activity which involves intentional draining, flooding or disturbing the water level or water table in a wetland, in which the activity itself occurs outside the wetland and buffer, shall be considered a regulated activity.
4. Driving piling or placing obstructions, including placement of utility lines;
5. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure;
6. Altering the character of a wetland by destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting;
7. Activities which result in significant changes in water temperature or physical or chemical characteristics of wetland water sources, including changes in quantity of water and pollutant level;
8. Application of pesticides, fertilizers and/or other chemicals, unless demonstrated not to be harmful to wetland habitat or wildlife.
9. The division or redivision of land.

D. The Department may require protection measures or erosion control measures such as temporary or permanent fencing to provide for protection of a wetland and buffer when any of the above activities are proposed on a site, but are not proposed within a wetland and/or buffer.

14A.142.070 Exemptions.

The following activities are exempt from the provisions of this Title:

- A. Existing agricultural activities. The activities cease to be existing when the area on which they were conducted has been converted to a non-agricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume agricultural activities, unless the idle land is registered in a federal or state soils conservation program;
- B. Maintenance or reconstruction of existing roads, paths, bicycle ways, trails, bridges, and associated storm drainage facilities, provided that reconstruction does not involve significant expansion of facilities. Construction of curbs, gutters, sidewalks or other incidental improvements to existing roadways shall generally be considered to

fall within this exemption when undertaken pursuant to best management practices to avoid impacts to critical areas;

C. Activities on improved portions of roads, rights-of-way or easements, provided there is no expansion of ground coverage

D. Maintenance or reconstruction of existing regional storm drainage facilities, provided that reconstruction does not involve expansion of facilities;

E. For the following utility line activities, when undertaken pursuant to best management practices to avoid impacts to critical areas:

1. Normal and routine maintenance or repair of existing utility structures or right-of-way.

2. Relocation within improved rights-of-way of electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of 55,000 volts or less only when required by a local government agency.

3. Relocation within improved right-of-way of utility lines, equipment, or appurtenances only when required by a local governmental agency which approves the new location of the facilities.

4. Installation or construction in improved City road rights-of-way, and replacement, operation, or alteration of all electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of 55,000 volts or less.

5. Installation or construction in improved City road rights-of-way and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances.

F. A utility line (any pipe or pipeline that transports any gaseous, liquid, liquefiable or slurry substance, and any cable, line or wire for the transmission of electrical energy, telephone, and telegraph messages, and radio and television communication, not including activities which drain a wetland, but including pipes that convey drainage from one area to another) may be placed in an underground trench within a category 2, 3 or 4 wetland or its buffer. There must be no resulting changes in pre-construction contours, and trench excavation materials that are temporarily sidecast must be stabilized to prevent erosion and sedimentation. All sidecast materials shall be replaced within the trench or removed after 90 days, unless an extension is granted by the Community Development Department. The trench shall be the minimum size required to construct the utility line. The top 12" of the trench shall be backfilled with topsoil from the trench excavation. Trenches in wetlands shall be backfilled with wetland topsoil from the excavation, and appropriate vegetation planted to restore the site to a nearly as practical the pre-trenching condition. Trench excavation should be restricted to the dry season. All permits from other regulatory agencies must be obtained.

G. Reconstruction, remodeling, or maintenance of existing single-family residential structures and accessory structures, provided that cumulative expansion of the building footprint does not increase by more than twenty-five percent from its size as of October 8, 1991 (the effective date of Pierce County Critical Areas Regulations) and that the new construction or related activity does not further intrude into the

critical area or related buffer. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a landslide hazard area;

H. Reconstruction, remodeling, or maintenance of structures, other than single-family structures and accessory structures, provided that such reconstruction, remodeling, or maintenance does not increase the floor area nor extend beyond the existing ground coverage. The exemption shall not apply to reconstruction which is proposed as a result of site or structural damage associated with a critical area, such as slope failure in a landslide hazard area;

I. Activities in artificial wetlands, except those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands;

J. Activities affecting:

- Category IV wetlands which are less than 1,000 square feet where the wetland is found to provide no special habitat functions for wildlife or special status plants or plant communities, and the hydrological functions of the exempted wetland are replaced to the satisfaction of the City Engineer, and ;

K. Activities in wetlands in areas managed according to a Special Area Management Plan or other plan adopted by the City and specifically designed to protect wetland resources;

L. Maintenance activities of landscaping and gardens in a wetland buffer, including, but not limited to, mowing lawns, weeding, harvesting and replanting of garden crops, pruning and planting of vegetation to maintain the condition and appearance of the site existing on February 1, 1992.

M. Activities designed for previously approved maintenance and enhancement of wetlands.

N. Placement of access roads, utility lines and utility poles across a Category IV wetland and/or a buffer for a Category IV wetland if there is no reasonable alternative.

O. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;

P. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation. The Department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken.

Q. Activities undertaken to comply with the United States Environmental Protection Ecology Administrative Enforcement Order pursuant to the Model Toxins Control Act, including the following activities:

- (1) Remediation or removal of hazardous or toxic substances;
- (2) Source control; and
- (3) Natural resource damage restoration.

- R. Control of noxious weeds that are included on the State noxious weed list. Control methods shall be subject to review and approval of an abatement plan by the Department that minimizes the impacts to the critical area and any associated buffers.
- S. Activities undertaken on the site of an existing holding pond where the water flow and/or water table is controlled by a previously approved pump system.
- T. Public stormwater retention/detention facilities may be constructed within Category 2, 3 and 4 wetlands or their buffers provided that the following conditions are met: 1). no untreated stormwater is released directly into the wetlands; 2). water levels are monitored annually to ensure that pre-existing functions and values of the wetland are not significantly lost through fluctuations in wetland hydrology; 3). maintenance activity within the wetland is limited to removal of invasive vegetation and/or removal of sediment accumulation at inflow structures in a manner acceptable to the Community Development Department; 4). there is no loss of wetland area; 5) all construction activity is conducted in accordance with accepted BMPs; and 6) the stormwater management activity shall not adversely affect the hydro-period of the wetland or adversely affect water quality.

Stormwater conveyance facilities such as bio-swales, culverts, and open trenches, that are not designed to drain wetlands, may be placed within required buffers for category 1, 2, 3 and 4 wetlands, subject to meeting the conditions listed above. This conditional exemption would not apply in situations where there are threatened or endangered species, or sensitive plants, unless approved by the State Department of Fish and Wildlife or Department of Natural Resources, respectively. All permits from other regulatory agencies must be obtained.

- U. A residential building permit for a lot which was subject to previous reports and assessments as required under this Title; provided that the previous reports and assessments adequately identified the impacts associated with the current development proposal.
- V. The installation of an on-site sewage disposal system for a single or two-family dwelling may be permitted within an aquifer recharge area, subject to the issuance of a permit by the Tacoma-Pierce County Health Department (TPCHD) according to all Washington State Department of Health and Tacoma-Pierce County Board of Health requirements for on-site sewage disposal. The TPCHD shall verify and notify the applicant or applicant's agent that the approval of the on-site sewage disposal system design complies with all Washington State Department of Health and Tacoma-Pierce County Board of Health requirements. The development shall otherwise be subject to all of the other requirements and restrictions of this Title (including exclusion from other identified critical areas), the Lakewood Municipal code, and other applicable state and federal law.

14A.142.080 Reasonable Use Exception.

- A. If the application of this Title would deny all reasonable use of a site, development may be allowed which is consistent with the general purposes of this Title and the public interest.
- B. Nothing in this Title is intended to preclude all reasonable use of property. An applicant for a development proposal may file a request for a reasonable use exception which shall be considered as a Process III permit action by the City

Hearing Examiner at a public hearing, following notice, as required by the City Zoning Code. The request shall include the following information:

1. A description of the areas of the site which are critical areas and/or natural resource lands or within buffers required under this Title;
2. A description of the amount of the site which is within setbacks required by other standards of the zoning code;
3. A description of the proposed development, including a site plan;
4. An analysis of the impact that the amount of development described in subsection (3) would have on the natural resource land(s) or critical areas(s);
5. An analysis of what other reasonable uses with less impact on the natural resource land(s) or critical area(s) and associated buffer(s) are possible;
6. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the natural resource land(s) and/or critical area(s);
7. An analysis of the modifications needed to the standards of this Title to accommodate the proposed development;
8. A description of any modifications needed to the required front, side and rear setbacks; building height; and buffer widths to provide for a reasonable use while providing greater protection to the critical area(s) and/or natural resource land(s); and
9. Such other information as the Department determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.
10. The Department will forward a copy of a request for reasonable use exception to the Washington State Departments of Fish and Wildlife and Ecology for review, comment, and recommendation.

C. The Hearing Examiner may approve the reasonable use exception, if the Examiner determines the following criteria are met:

1. There is no other reasonable use to the proposed development with less impact on the natural resource land(s) and/or critical area(s); and
2. The proposed development does not pose a threat to the public health, safety or welfare on or off the site; and
3. Any alteration of the natural resource land(s) and/or critical area(s) shall be the minimum necessary to allow for reasonable use of the property; and
4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or

adjusting a boundary line thereby creating the undevelopable condition after October 8, 1991 (the effective date of Pierce County Critical Areas Regulations); and

5. The proposal mitigates the impacts on the natural resource land(s) and/or critical area(s) to the maximum extent possible, while still allowing reasonable use of the site.

6. For Reasonable Use Exceptions involving wetlands, the additional requirements of Section 14A.162.090.D shall apply.

D. Where appropriate in the context of Section 14A.142.110, the City shall give preference to the modification of the development standards set forth in the Land Use and Development Code (LMC Title 18A) as the first method to accommodate reasonable development on lots constrained by critical areas and/or their buffers.

14A.142.090 Reasonable Use Exception And Modification Of Critical Area Requirements For Individual Single-Family Residences

The purpose of this section is to provide an alternative to the full reasonable use exception process for an individual single-family residence on an existing, legal lot, while minimizing impacts to critical areas. The Director shall have the authority to grant minor variances and/or reasonable use exceptions to modify or waive some or all of the requirements of this chapter in accordance with the provisions of this section, subject to the following procedure:

A. The applicant for the modification or waiver of critical area requirements shall submit any critical area special studies following a preapplication review meeting as well as such other documents or studies, as requested by the Director.

B. The Director may adjust critical area requirements or grant minor variances for single-family residence applications provided:

1. The proposal is the minimum necessary to accommodate the building footprint and access. In no case, however, shall the building footprint and outdoor activity areas encroaching into the critical area or required buffer exceed 7,000 square feet.

2. Access shall be located so as to have the least impact on the critical area and its buffer.

3. The proposal shall be designed to preserve the functions and values of the critical area(s) to the maximum extent possible.

4. Adverse impacts resulting from alterations of steep slopes shall be minimized.

5. The proposal includes on-site mitigation to the maximum extent possible.

6. The proposal will not significantly affect drainage capabilities, flood potential, and steep slopes and landslide hazards on neighboring properties; and

7. The proposal first develops noncritical area land, then the critical area buffer before the critical area itself is developed.

C. The Director may require reasonable, non-compensatory mitigation measures to mitigate and minimize the loss of the functions and values of the critical areas and may impose mitigating conditions to the modification, waiver or variance in order to meet the standards of this subsection.

D. Modifications pursuant to this chapter that relate only to the buffer requirements for single-family residential permits shall be reviewed and decided as a Process 1 determination in conjunction with the Building Permit application. Modifications that would impinge upon the critical area itself or require an administrative building setback variance shall be reviewed and decided using Process 2 procedures.

E. This section shall not apply to the following critical areas:

1. Steep slope hazard areas that are unmitigatable landslide hazard areas;
2. Steep slope hazard areas of slope greater than 70 percent where either the lot or slope are abutting and above a class 1 or 2 wetland stream, and associated buffer, or an open stormwater conveyance system;

14A.142.100 Process.

- A. The Department shall perform a critical areas and natural resource lands review of any City permit or approval requested for any regulated activity including, but not limited to, those set forth in Section 14A.142.060, on a site which includes or is adjacent to or abutting one or more natural resource lands or critical areas and their buffers, unless otherwise provided in this Title.
- B. As part of all development applications:
 1. The Department shall review the information submitted by the applicant to:
 - a. Confirm the nature and type of the natural resource land and/or critical area and evaluate any required studies;
 - b. Determine whether the development proposal is consistent with this Title;
 - c. Determine whether any proposed alterations to the site containing natural resource lands or critical areas are necessary;
 - d. Determine if the mitigation and monitoring plans proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this Title.
- C. A threshold determination may not be made prior to Departmental review of any special studies or technical reports required by this Title, except where the applicant requests a declaration of significance so that environmental review is required.
- D. The City may approve, approve with conditions, or deny any development proposal in order to comply with the requirements and carry out the goals, purposes, objectives and requirements of this Title.
- E. Approval of a development proposal does not discharge the obligation of the applicant or any successors in interest to comply with the provisions of this Title.

14A.142.110 Variances.

Variance applications for exceptions to the development standards of the City's Land Use and Development Code may be used as a method for reducing impacts to critical areas. The City's Hearing Examiner or Community Development Director may consider impacts to critical areas as an undue hardship, and as a basis for finding that unique circumstances apply to a specific property in support of the granting of variances. Variance applications

shall be considered by the City according to variance procedures in the City Land Use and Development Code.

14A.142.120 Current Use Assessment

- A. The Department shall notify the Assessor-Treasurer's Office when restrictions on development occur on a particular site.
- B. The City shall provide the Assessor-Treasurer's Office with relevant information regarding critical areas and buffering requirements of this Chapter in determining the fair market value of the land. Any owner of an undeveloped buffer which has been placed in a separate tract or tracts, protective easement, public or private land trust dedication, or other similarly preserved area may petition the County Assessor-Treasurer's Office to have that portion of land assessed consistent with those restrictions

14A.142.130 Compliance Provisions.

1. General Provisions

- A. The Department shall have authority to enforce this Title, any rule or regulation adopted, and any permit, order or approval issued pursuant to this Title, against any violation or threatened violation thereof. The Department is authorized to issue civil infraction citations and administrative orders, levy fines, and/or institute legal actions in court including prosecution of misdemeanor violations. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Title, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this Title, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.
- B. The Department is authorized to make site inspections and take such actions as necessary to enforce this Title. A Department representative may enter private property with the consent of the owner or occupant or pursuant to a warrant.
- C. The Department shall have the authority to order restoration, rehabilitation or replacement measures to compensate for the destruction or degradation of critical areas or natural resource lands at the owner's expense.
- D. The Department may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of critical areas or buffers which are inconsistent with this Title. Enforcement actions shall include civil infractions, administrative orders, prosecution of misdemeanors, and actions for damages and restoration.
- E. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation of this Title.

- F. Any person found to have violated any provision of this Title or who knowingly makes a false statement, representation or certification in any application, record or other document filed or required to be maintained under this Title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this Title shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of up to \$1,000.00.
- G. Orders and penalties issued pursuant to this Section may be appealed as provided for by this Title.

2. Administrative Orders

- A. The Department may serve an administrative order when any person makes or partakes in any use of land, development or any activity on regulated critical areas and/or buffers in violation of this Title. The order shall include the following:
- (1) A description of the specific nature, location, extent and time of violation. The order may include the damage or potential damage resulting from the violation.
 - (2) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order.
 - (3) Effective date. The cease and desist order issued under this Section shall become effective immediately upon receipt by the person to whom the order is directed.
 - (4) Compliance. Failure to comply with the terms of an administrative order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.
 - (5) The order may include specific corrective measures to be taken to mitigate environmental damage.
 - (6) The order shall state that a hearing may be requested by an affected party by sending a written request for a hearing to the Hearing Examiner within ten (10) days of the receipt of said order and upon payment of the applicable appeal fee.
 - (7) Failure to comply with the terms and provisions of an administrative order issued under this Title shall constitute public nuisance and may be abated and prosecuted according to applicable law including Lakewood Municipal Code Section 8.16, RCW 7.48 and RCW 9.66.
 - (8) Administrative orders pursuant to this Title shall be served upon the property owner or person or party occupying the property by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to the property owner at the property address or to the mailing address listed upon public records regarding the property. In the event that personal service or certified mail service cannot be completed, or the property owner cannot be identified or located, service of the order may be achieved by posting the administrative order in a conspicuous location upon the property.

B. Any person who undertakes any activity within a regulated critical area or buffer without first obtaining an approval required by this Title, or who violates one or more conditions of any approval required by this Title, shall be subject to a Class 2 civil infraction citation with a mandatory \$250.00 fine. Any person who violates one or more conditions of administrative order issued under this Title may be subject to prosecution for a misdemeanor, and a maximum penalty of 90 days in jail and/or a \$1,000.00 fine may be imposed. Each violation and, in the case of a continuing violation, each violation and each day of activity without a required approval shall be a separate and distinct violation. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. The penalty provided shall be appealable as provided by law.

3. Penalties and Enforcement.

Any person, party, firm, corporation or other legal entity convicted of violating any of the provisions of this Title, shall be guilty of a civil infraction or misdemeanor. Each day or portion of a day during which a violation of this Title is continued, committed, or permitted shall constitute a separate offense. Any development carried out contrary to the provisions of this Title shall constitute a public nuisance and may be enjoined as provided by the Statutes of the State of Washington.

4. Suspension and Revocation.

In addition to other penalties provided for elsewhere, the Department may suspend or revoke any project permit approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.

14A.142.140 Appeal Procedures.

Requests for reconsideration and appeals of a decision issued under this Title shall be considered by the City according to procedures provided in the City's Land Use and Development Code for the underlying permit or entitlement, or as an appeal of an administrative decision.

14A.142.150 Financial Guarantees

The City shall require an applicant to submit a financial guarantee to the City to guarantee any performance, mitigation or monitoring required as a condition of permit approval under this title. The permit shall not be granted until the financial guarantee is received by the Department.

A. Financial Guarantees required under this Title shall:

1. be in addition to the site development construction guarantee required by the City's Site Development Regulations.
2. be submitted on financial guarantee forms found in the City's Site Development Regulations Appendix;

3. be 125 percent of the estimate of the cost of mitigation or monitoring to allow for inflation and administration should the City have to complete the mitigation or monitoring;
4. be released by the City only when City officials have inspected the site(s) and the applicant's engineer and/or appropriate technical professional has provided written confirmation that the performance, mitigation or monitoring requirements have been met.

14A.142.160 Fees.

The City shall establish an appropriate fee structure for permit processing and technical review by separate resolution.

14A.142.170 Title and Plat Notification.

If more than one critical areas/resource lands exist on the site subject to the provisions of this Title, then one notice which addresses all of the critical areas/resource lands shall be sufficient.

14A.142.180 Nonconforming Uses.

An established use or existing structure that was lawfully permitted prior to adoption of this Chapter, but which is not in compliance with this Chapter, may continue subject to the following:

- A. Nonconforming uses shall not be expanded, or changed in any way that increases the nonconformity without a permit issued pursuant to the provisions of this Chapter;
- B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit issued pursuant to the provisions of this Chapter, except one-family dwellings and accessory structures may be expanded or altered as provided in Section 14A.142.070 G.;
- C. Activities or uses which are discontinued for twelve (12) consecutive months shall be allowed to resume only if they are in compliance with this Chapter; and
- D. Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction is commenced within one (1) year of such damage and is substantially completed within eighteen (18) months of the date such damage occurred. The reconstruction or restoration shall not serve to expand, enlarge or increase the nonconformity.

14A.142.190 Administrative Procedures and Technical Criteria.

The Department shall develop administrative procedures, including technical requirements, to guide decision making in implementing provisions of this Chapter. In particular, the Department shall adopt procedures for determining the category of specific wetlands. In so doing, the Department shall solicit the views of wetland specialists, ecologists, developers and interested citizens. Administrative procedures can be modified from time to time, and can include material by reference to state or federal criteria subject to notice to the public and consideration of public views and input. Administrative procedures shall be made

available to the public upon request, and shall be consistent with the provisions of this Chapter. Upon request, the Department shall provide The City Council with copies of all administrative procedures, including modifications, to ensure consistency with the provisions of this Chapter.

14A.142.200 Severability.

If any provision of this Title or any of its subsections, or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected.

Chapter 14A.146

GEOLOGICALLY HAZARDOUS AREAS

Sections:

- 14A.146.010 Purpose.
- 14A.146.020 Designation of Erosion and Landslide Hazard Areas.
- 14A.146.030 Protection Standards in Erosion and Landslide Areas
- 14A.146.040 Designation of Seismic Hazard Areas.
- 14A.146.050 Protection Standards in Seismic Hazard Areas

14.146.010 Purpose.

The intent behind the classification and designation of geologically hazardous areas is to classify and designate areas on which development should be prohibited, restricted, or otherwise controlled because of danger from geological hazards. For purposes of this Title, geologically hazardous areas include the following: erosion and landslide hazard areas and seismic hazard areas.

14A.146.020 Designation of Erosion and Landslide Hazard Areas.

A. General.

Erosion hazard areas are those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion. Landslide hazard areas are areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

B. Classification.

1. Criteria.

- a. Erosion hazard areas are identified by the presence of vegetative cover, soil texture, slope, and rainfall patterns, or human-induced changes to such characteristics, which create site conditions which are vulnerable to erosion. Erosion hazard areas are those areas that are classified as having moderate to severe, severe or very severe erosion potential by the Soil Conservation Service, United States Department of Agriculture (USDA). The geologic units considered as potential erosion hazards within areas of slopes greater than 15% may consist of the following: m (modified land, Qal (alluvium), Qw (wetland deposits), Qb (beach deposits), Qtf (tide flat deposits), Qls (landslide deposits), Qf (fan deposits), the Qvr and Qvs series (Vashon recessional outwash, and Steilacoom Gravel), and Qvi (Ice contact deposits). These units are identified because of density and composition.
- b. Landslide hazard areas are those areas meeting any of the following criteria:

1. Areas of historic failures, including areas of unstable old and recent landslides;
2. Areas with all three of the following characteristics:
 - a. Slopes steeper than 15%; and
 - b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - c. Springs or groundwater seepage.
3. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems, and fault planes, in subsurface materials;
4. Slopes having gradients steeper than 80% subject to rockfall during seismic shaking;
5. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;
6. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;
7. Any area with a slope of 30 percent or steeper and with a vertical relief of ten or more feet. A slope is delineated by establishing the toe and top and measured by averaging the inclination over at least ten feet of vertical relief;
8. Areas which have a "severe" limitation for building site development because of slope conditions, according to the Soil Conservation Service.

2. Mapping.

_____ Areas meeting the criteria established above may be delineated in the following _____ documents:

- a. Soil Survey of Pierce County Area, Washington, 1979, Soil Conservation Service, United States Department of Agriculture (USDA).
- b. Coastal Zone Atlas for Washington, Washington Department of Ecology;
- c. Areas designated as slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources Division of Geology and Earth Resources;

- d. Geologic Map of the Steilacoom 7.5-Minute Quadrangle, Washington 2003.

14A.146.030 Protection Standards For Erosion And Landslide Hazard Areas

A. Prohibited Development Areas

In areas meeting all three of the following characteristics, no structure or disturbance of vegetation is permitted:

1. An area with a slope of 100% or steeper (45 degrees); and
2. hillside intersecting geological contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
3. springs or groundwater seepage.

B. Regulation- Geotechnical Report Required.

For all regulated activities proposed within landslide and erosion hazard areas, a geotechnical report prepared by a professional geotechnical engineer or geologist licensed by the State of Washington shall be submitted (See Subsection 2 below). Where the applicant can clearly demonstrate to the Department through submittal of a geological assessment (see Subsection 1 below) that the regulated activity or any related site alterations will not occur within the landslide or erosion hazard area or any associated buffers, the requirements for a geotechnical report may be waived. A geological assessment may be prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering or by a professional geologist/hydrologist or soils scientist who has earned a bachelor's degree in geology, hydrology, soils science, or closely related field from an accredited college or university, or equivalent educational training, and has at least five (5) years experience assessing erosion and landslide hazards.

1. Geological Assessments.

- a. Should the applicant question the presence of landslide or erosion hazard areas on the site, the applicant may submit a geological assessment.
- b. The geological assessment shall include at a minimum the following:
 - (1) A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site; and
 - (2) An evaluation of the analysis area's inherent landslide and erosion hazards; and

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- (3) A site plan of the area delineating all areas of the site subject to landslide and erosion hazards, based on mapping and criteria referenced in 14A.146.020 above.

The submittal must include a contour map of the proposed site, at a scale of 1"= 20 feet or as deemed appropriate by the Department. Slopes shall be clearly delineated for the ranges between 15 and 29 percent, and 30 percent or greater, including figures for aerial coverage of each slope category on the site. When site specific conditions indicate the necessity, the Department may require the topographic data to be field surveyed.

2. Geotechnical Reports.

The geotechnical report shall be prepared by a professional geotechnical engineer or geologist licensed by the State of Washington, and shall address the existing geologic, topographic, and hydrologic conditions on a site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

a. Site Geology Information required:

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- (1) Topographic data. Submittal must include a contour map of the proposed site, at a scale of 1"= 20 feet or as deemed appropriate by the Department. Slopes shall be clearly delineated for the ranges between 15 and 29 percent, and 30 percent or greater, including figures for aerial coverage of each slope category on the site. When site specific conditions indicate the necessity, the Department may require the topographic data to be field surveyed.
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- (2) Subsurface data. Submittal must include boring logs and exploration methods; soil and rock stratification, groundwater levels and seasonal changes of groundwater levels. Subsurface data shall include any evidence of the presence of any organic fill or other conditions that would have the potential to affect buildings or development on the site.
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- (3) Site history. Submittal must include a description of any prior grading, soil instability, or slope failure.
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- (4) Seismic hazard. Submittal of data concerning the vulnerability of the site to seismic events, including potential for liquefaction of soils.

b. Geotechnical Engineering Information required:

-
- (1) slope stability studies and opinion(s) of slope stability for the pre-developed and post-developed condition. Site specific setbacks and buffers from landslide hazard areas should be based on the results of the stability analysis;

- (2) proposed angles of cut and fill slopes and site grading requirements;
- (3) structural foundation requirements and estimated foundation settlements;
- (4) soil compaction criteria;
- (5) proposed surface and subsurface drainage;
- (6) lateral earth pressures;
- (7) vulnerability of the site to erosion;
- (8) suitability of on-site soil for use as fill;
- (9) laboratory data and soil index properties for soil samples; and
- (10) building limitations.

Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site, or surrounding the site, the applicant shall submit an amendment to the geotechnical report.

The development proposal may be approved, approved with conditions, or denied based on the Department's evaluation of the ability of the proposed mitigation measures to reduce risks associated with the erosion and landslide hazard area.

3. Protection- Performance Standards.

The Department shall evaluate all geotechnical reports for landslide and erosion hazard areas to insure that the following standards are met:

a. Location and extent of development:

- (1) Development shall be located to minimize disturbance and removal of vegetation;
- (2) Structures shall be clustered where possible to reduce disturbance and maintain natural topographic character; and
- (3) Structures shall conform to the natural contours of the slope and foundations should be tiered where possible to conform to existing topography of the site.

b. Design of development:

- (1) All development proposals shall be designed to minimize the building footprint and other disturbed areas within the identified geologically hazardous area;
- (2) All development shall be designed to minimize impervious lot coverage;
- (3) Roads, walkways and parking areas shall be designed to parallel the natural contours;
- (4) Access ways shall be designed to avoid geological hazards to the extent feasible. If hazardous areas cannot be avoided, then hazards shall be mitigated as directed by a professional engineer licensed by the State of Washington.

The Department may approve, approve with conditions, or deny development proposals based on these performance standards.

4. Protection- Buffer Requirement.

A buffer, consisting of undisturbed natural vegetation, and measured (as shown in diagram 1) in a perpendicular direction from all landslide and erosion hazard areas, shall be required from the top of slope and toe of slope of all landslide or erosion hazard areas that measure 10 feet or more in vertical elevation change from top to toe of slope, as identified in the geotechnical report, maps, and field-checking. The minimum buffer distance requirements from the top of slope and toe of slope of landslide or erosion hazard areas shall be the same as for setbacks from slopes as identified in the International Building Code Section 1805.3, as may be amended by the State Building Code Council, or as indicated by a site-specific geotechnical report.. In addition, a setback from the buffer area shall be provided as described in Subsection 6 below. In no case shall the building setback from the top, sides and toe of a landslide hazard area be less than 10 feet.

To increase the functional attributes of the buffer, the Department may require that the buffer be enhanced through planting of appropriate native species that will provide effective protection against erosion and landslides. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any site clearing or construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground. Site-clearing shall not commence until the engineer has submitted written notice to the Department that buffer requirements of this Chapter are met. Field-marking shall remain until all construction and clearing phases are completed, and final approval has been granted by the Department. The identified critical area and buffer shall be placed in a separate critical area tract or tracts, protective easement, public or private land trust dedication, or similarly preserved through an appropriate permanent protective mechanism as determined by the Department.

5. Modifications to Buffer Width.

When the geotechnical report demonstrates that a lesser buffer distance, and design and engineering solutions, will meet the intent of this Chapter, such reduced buffer and design and engineering solutions may be permitted.

Should the geotechnical report indicate that a greater buffer than that required by Subsection 4 is needed to meet the intent of this Chapter, the greater buffer shall be required.

6. Building Setback and Construction near Buffer.

Eight foot minimum setback lines shall be required from the buffer area required in Subsection 4, for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within eight feet of the buffer shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged.

7. On-site sewage disposal systems.

On-site sewage disposal systems, including drain fields within landslide or erosion hazard areas and related buffers as identified in Subsection 4. shall meet all requirements of the Tacoma-Pierce County Board of Health and the Washington State Department of Health for on-site sewage disposal (WAC Chapter 246-272).

8. Erosion Control Plan.

Erosion control plans shall be required for all regulated activities in erosion hazard areas. The erosion control plans shall be consistent with the City Site Development Regulations, Section 3.04.

9. Notification.

a. Title Notification.

The owner of any site within an erosion hazard or landslide hazard area, as identified in LMC 14A.146.020, on which a development proposal is submitted, shall record a notice with the Pierce County Auditor in the form set forth below:

b. Form of Notice:

EROSION OR LANDSLIDE HAZARD AREA NOTICE

Parcel Number: _____

Address: _____

Legal Description: _____

Present Owner: _____

Notice: This site lies within an erosion or landslide area as defined by Chapter 14A . ____ of the Lakewood Municipal Code. The site was the subject of a development proposal for _____

application number _____

filed on _____

(date).

Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of the erosion or landslide hazard area and any restriction on use.

Signature of Owner(s)

(NOTARY ACKNOWLEDGMENT)

c. Plat Notification.

For all proposed short subdivision and subdivision proposals within erosion hazard or landslide hazard areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

Notice: This site lies within or includes an erosion hazard or landslide hazard area as defined in Chapter 14.146 of the City Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

14A.146.040 Designation of Seismic Hazard Areas.

A. General.

Seismic Hazard Areas are areas subject to severe risk of earthquake damage from seismically induced settlement or lateral spreading as a result of soil liquefaction in an area underlain by cohesionless soils of low density and usually in association with a shallow ground water table.

B. Classification.

1. Criteria.

Seismic hazard areas are generally those areas susceptible to ground failure during seismic events. Failure can consist of soil liquefaction, slope failure, settlement, ground rupture, or lateral displacement. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils, usually fine sand, of low density, typically in association with a shallow groundwater table.

2. Mapping.

Seismic hazard areas may be identified using the Geologic Map of the Steilacoom 7.5-Minute Quadrangle, Washington 2003; and the "Preliminary Liquefaction Susceptibility Map of Pierce County, Washington, September 2003" published by the Washington Department of Natural Resources.

14A.146.050 Protection Standards in Seismic Hazard Areas

A. Regulation –Geotechnical Report Required.

For all regulated activities, except the construction of wood frame structures under 5,000 square feet, mobile homes, fences, and/or subdivision of property, proposed within seismic hazard areas, a geotechnical report prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering shall be submitted (see Subsection 2.

below). Retaining walls may also be excluded from the requirement of a geotechnical report when the height of soil fills on the upper side are not in excess of 4 feet above the toe of the wall, backfills do not exceed a top surface slope of 4:1 (H:V), and there is no permanent structure existing or proposed within a distance of 3 times the height of the wall. Where an applicant can demonstrate through submittal of a geological assessment (see Subsection 1.), that there are no seismic hazards on site, the requirement for the geotechnical report may be waived. A geological assessment may be prepared by a professional geotechnical engineer or by a professional geologist licensed by the State of Washington.

1. Geological Assessments.

a. Should the applicant question the presence of seismic hazard areas on the site, the applicant may submit a geological assessment.

b. The geological assessment shall include at a minimum the following:

(1) A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site; and

(2) An evaluation of the analysis area's inherent seismic hazards; and

(3) A site plan of the area delineating all areas of the site subject to seismic hazards, based on mapping and criteria referenced in LMC 14A.146.040 above.

If the geological assessment demonstrates, to the satisfaction of the Department, that the proposed site is not located in any seismic hazard areas, based upon the criteria set forth in Subsection B. above, then the requirements of this Section shall not apply.

2. Geotechnical Report.

The geotechnical report shall be prepared by a professional engineer licensed by the State of Washington with experience in geotechnical engineering and shall address the existing geologic, topographic, and hydrologic conditions on a site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

a. A discussion of the surface and subsurface geologic conditions of the site;

b. A site plan of the area delineating all areas of the property subject to seismic hazards, based on mapping and criteria referenced in LMC 14.146.040 above;

c. A discussion of mitigation measures which can be taken to reduce seismic risks associated from liquefaction, ground shaking, settlement or slope failure with the underlying surficial geology; and

- d. An evaluation of the effectiveness of the proposed mitigation measures.

Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site, or surrounding the site, the applicant shall submit an amendment to the geotechnical report.

The development proposal may be approved, approved with conditions, or denied based on the Department's evaluation of the ability of the proposed mitigation measures to reduce seismic risks associated with the underlying surficial geology.

3. Notification.

a. Title Notification.

The owner of any site within a seismic hazard area as identified in LMC 14A.146.040, on which a development proposal is submitted, shall record a notice with the Pierce County Auditor in the form set forth below:

Form of Notice:

SEISMIC HAZARD AREA NOTICE

Parcel Number:

Address:

Legal Description:

Present Owner:

Notice: This site lies within a seismic hazard area as defined by Chapter 14.146 of the Lakewood Municipal Code. The site was the subject of a development proposal for

application number

filed on

(date).

Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of a seismic hazard area and any restrictions on use.

Signature of owner(s)

NOTARY ACKNOWLEDGMENT

b. Plat Notification.

For all proposed short subdivision and subdivision proposals within seismic hazard areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

Notice: This site lies within a seismic hazard area as defined in Chapter 14.146, of the City Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

Chapter 14A.150

AQUIFER RECHARGE AREAS

Sections:

14A.150.010 Purpose.

14A.150.020 Designation of Aquifer Recharge Areas.

14A.150.030 Protection Standards in Aquifer Recharge Areas

14A.150.040 Hydrogeological Assessments

14A.150.010 Purpose.

The Growth Management Act requires the City of Lakewood to designate areas and adopt development regulations for the purpose of protecting areas within the city critical to maintaining ground water recharge and quality. The Growth Management Act, Water Pollution Control Act, Water Resources Act of 1971, and the Ground Water Quality Standards require that these actions be taken to protect ground water quality and quantity such that it's use as potable water can be preserved for current and future uses. This ordinance shall define a scientifically valid methodology by which the City of Lakewood will designate areas determined to be critical in maintaining both ground water quantity and quality. This ordinance shall specify regulatory requirements to be enacted when development within these areas is proposed to occur.

14A.150.020. Designation of Aquifer Recharge Areas.

- A. General.** Aquifer recharge areas are areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute to the replenishment of groundwater.
- B. Classification.** For the purposes of this Chapter, the boundaries of the City's aquifer recharge areas are:
1. The boundaries of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range, as identified in Map of Ground Water Pollution Potential, Pierce County, Washington, National Water Well Association, US Environmental Protection Agency; and
 2. The Clover/Chambers Creek Aquifer Basin boundary, as identified in Draft Clover/Chambers Creek Basin Ground Water Management Program and Environmental Impact Statement, Brown and Caldwell for Washington State Department of Ecology.
 3. Any site located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.

14A.150.030 Protection Standards in Aquifer Recharge Areas.

- 1. Exemptions.** In addition to the exemptions listed in LMC 14A.142.070, the following uses shall be exempt from the requirements of this Chapter:
 - a. Sewer lines and appurtenances.

- b. Individual on-site domestic sewage disposal (septic) systems releasing less than 14,500 gallons of effluent per day, subject to permitting by the Tacoma-Pierce County Health Department

2. Plat Notification.

For all proposed short subdivision and subdivision proposals within the City, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

Notice: This subdivision lies within an aquifer recharge area as defined in Chapter 14.150 of the Lakewood Municipal Code. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

3. Prohibited Activities.

Because of high potential for contamination, and low potential for remediation of groundwaters used as potable water sources, the following uses of land shall be prohibited within the City of Lakewood:

- A. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, and woodwaste. Inert and demolition waste landfills may be permitted subject to the requirements of Subsection 5 below.
- B. Underground injection wells, except as may be proposed by a public agency for remediation of groundwater contamination or aquifer enhancement.
- C. Metals mining
- D. New sand and gravel mining
- E. Wood treatment facilities
- F. Storage of more than 70,000 gallons of liquid petroleum or other hazardous substance.

4. Regulated Activities.

The following land uses may only be permitted after review and approval of a hydrogeological assessment by the Tacoma- Pierce County Health Department. Uses requiring a hydrogeological assessment may be conditioned or denied based upon the TPCHD's evaluation of the hydrogeologic assessment. Other state and federal regulations pertaining to the specific activities are listed should be referenced in the hydrogeologic assessment and agency review:

- (1) Above Ground Storage Tanks (WAC 173-303-640);
- (2) Automobile Washing Facilities (WAC 173-216, DOE Publication WQ-R-95-56);
- (3) Below Ground Storage Tanks (WAC 173-360);

- (4) Residential structures housing three or more units and utilizing on-site septic systems (WAC 246-272, TPCHD Regulations)
- (5) Sludge land application sites categorized as S-3, S-4 and S-5, as defined above;
- (6) Animal Containment Area (WAC 173-216, WAC 173-220);
- (7) Inert and demolition waste landfills (WAC 173-304);
- (8) Facilities with the potential to generate hazardous waste, including, but not limited to: boat repair facilities, biological research facilities, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, and printing shops. (WAC 173-303).

5. Storage Tank Permits.

The Fire Marshal specifically regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this Chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The TPCHD regulates and authorizes permits for the removal of underground storage tanks (Pierce County Code, Chapter 8.34).

a. Facilities with underground tanks. New Underground Tanks.

All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

1. Prevent releases due to corrosion or structural failure for the operational life of the tank;

2. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

3. Use material in the construction or lining of the tank which is compatible with the substance to be stored.

4. The installation of underground storage tanks shall also be subject to state and local permit requirements.

b. Above ground tanks.

1. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwaters, or surface waters of Lakewood within an aquifer recharge area.

2. No new aboveground tank or part thereof, with the exception of tanks for potable water, shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.
3. A new aboveground tank that will contain hazardous substances shall be of double wall construction and shall include a secondary containment system separate from the tank that will hold 110% of the tank's capacity. The secondary containment system must be designed and constructed contain the material stored in the tank.

14A.150.040 Hydrogeological Assessments

- A. The hydrogeologic assessment may be submitted by a State of Washington licensed hydrogeologist, or Professional Engineer with a strong background in geology as demonstrated by course work from an accredited college or university. Persons who believe they are qualified to conduct a hydrogeologic assessment may petition the TPCHD for consent.
- B. The hydrogeologic assessment shall include, but is not limited to:
 - (1) Information sources;
 - (2) Geologic Setting-Include well logs or borings used to identify information;
 - (3) Background water quality;
 - (4) Groundwater elevations;
 - (5) Location/Depth to perched water tables;
 - (6) Recharge potential of facility site (permeability/transmissivity);
 - (7) Groundwater flow direction and gradient;
 - (8) Currently available data on wells located within 1,000 feet of site;
 - (9) Currently available data on any spring within 1,000 feet of site;
 - (10) Surface water location and recharge potential;
 - (11) Water source supply to facility (e.g. high capacity well);
 - (12) Any sampling schedules necessary;
 - (13) Discussion of the effects of the proposed project on the groundwater resource;
 - (14) Other information as required by the TPCHD.

_____ C. Uses requiring a hydrogeologic assessment may be conditioned or denied based upon the TPCHD's evaluation of the hydrogeologic assessment. Any project denied a permit based upon the Tacoma-Pierce County Health Department's evaluation of the hydrogeologic assessment shall receive a written explanation of the reason(s) for denial and an explanation of measures required, if any, to comply with these regulations.

Chapter 14A.154

FISH AND WILDLIFE HABITAT AREAS

Sections:

14A.154.010 Purpose and Intent.

14A.154.020 Designation of Fish and Wildlife Habitat Areas

14A.154.030 Habitat Protection Standards.

14A.154.040 Title and Plat Notification.

14A.154.050 Habitat Protection for Rivers and Streams.

14A.154.060 Habitat Protection for Lakes.

14A.154.070 Habitat Protection for Ponds.

14A.154.090 Provisions for Buffers, Where Required.

14A.154.010 Purpose and Intent.

Many land use activities can impact the habitats of fish and wildlife. Where areas of critical fish and wildlife habitat are subject to development, land use shall be managed to protect critical habitats. Managing land use to protect critical habitats is intended to allow proposed development to occur in a manner that is sensitive to the habitat needs of critical fish and wildlife species. The purpose of this Chapter is to identify critical fish and wildlife habitat species and habitats and establish habitat protection procedures and mitigation practices that are designed to achieve no "net loss" of species and habitat due to new development or other regulated activities.

As a necessary first step in achieving the necessary protection of critical fish and wildlife species, it is the intent of this Chapter to:

- A. Define and identify critical fish and wildlife species and habitats;
- B. emphasize and encourage education, information and voluntary action to enhance, protect, rehabilitate, and restore critical fish and wildlife species and habitats;
- C. rely primarily upon existing procedures and laws, such as the State Environmental Policy Act, RCW 43.21C, the City's Shoreline Use Regulations and the Shorelines Management Act, RCW 90.58, that directly or indirectly, protect fish and wildlife species and habitats; and
- D. establish buffers adjacent to rivers, streams, and other identified critical habitat areas and locations to protect critical fish and wildlife habitats.

It is not intended that this Chapter repeal, abrogate, or impair any existing law or regulations. If the buffering provisions of this Chapter conflict with any existing City law or regulation, the more stringent shall apply.

14A.154.020 Designation of Critical Fish and Wildlife Habitat Areas.

- A. General. This Chapter applies to proposed regulated activities within critical fish and wildlife habitat areas. Critical fish and wildlife habitat areas are those areas identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.

B. Identification of Critical Fish and Wildlife Species and Habitats.

1. Critical Fish and Wildlife Habitat Areas.

- a) Federal and State-Listed Species and their Associated Habitats. Areas which have a primary association with federally or state listed endangered, threatened, or sensitive species of fish or wildlife (specified in 50 CFR 17.11, 50 CFR 17.12, WAC 232-12-014 and WAC 232-12-297) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Endangered, threatened, or sensitive species found in Lakewood are listed in Appendix B.
- b) Habitats and Species of Local Importance, including the following:
 - (1) Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Special status and monitored species potentially found in Lakewood are listed in Appendix B.
 - (2) Documented habitat areas or outstanding potential habitat areas for fish and wildlife species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and Lakewood, and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:
 - (a) Priority Oregon White Oak Woodlands
 - (b) Prairies
 - (c) Old growth forests
 - (d) Caves
 - (e) Cliffs
 - (f) Snag-rich areas
 - (g) Rivers and streams with critical fisheries as specifically set forth in 14A.154.050 B.;
 - (h) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

- (i) Waters of the state, including all water bodies classified by the Washington Department of Natural Resources (DNR) water typing classification system as detailed in WAC 222-16-030, together with associated riparian areas;
- (j) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity or tribal entity;
- (k) State natural area preserves and natural resource conservation areas.

2. Mapping.

The resources listed below provide information on fish and wildlife habitat areas:

a. Puget Sound Environmental Atlas, Puget Sound Water Quality Authority.

b. The following Washington Department of Natural Resources documents and data sources:

1. Stream Typing Maps.

2. Natural Heritage Data Base.

c. The following Washington Department of Wildlife documents and data sources:

1. Priority Habitats and Species Program.

2. Non-game Data Base.

3. Washington Rivers Information System.

d. The following Washington Department of Fisheries documents:

1. Water Resource Index Areas (WRIA).

14A.154.030 Habitat Protection Standards.

A. Education and Information.

A voluntary education program to explain the need for and methods of habitat management will help provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the

vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.

2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this Chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to 14A.154.020. Information shall include the number of single family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.

B. Use of Existing Procedures and Laws—Biological Assessments.

The primary procedures used to implement this Chapter shall include this Chapter itself, the City's Land Use and Development Code (particularly Section 18A.40.200 relating to riparian areas), the State Environmental Policy Act (RCW 43.21C), the City's Environmental Regulations, the State Shorelines Management Act (RCW 90.58), and the City's Shoreline Management Regulations.

Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in this Title. The Community Development Director may require a biological assessment prepared by a qualified wildlife biologist whenever the Director finds that a project site may contain, affect, or be affected by, species or habitats designated in this Chapter. Biological assessments shall be prepared in accordance with Appendix A, and are subject to the review and approval of the Director.

Projects undergoing review for fish and wildlife considerations shall be routed to the Washington Department of Fish and Wildlife, the Washington Department of Ecology, the US Fish and Wildlife Service, the US Army Corps of Engineers and any other appropriate state and federal agencies. These agencies will have an opportunity to provide specific habitat information on proposed development sites, advise the City of their jurisdiction and applicable permit requirements, and suggest appropriate project modifications and or other mitigation.

The City shall give substantial weight to the management recommendations contained in the Washington Department of Fish and Wildlife Priority Habitats and Species Program, particularly the management recommendations for Oregon White Oak Woodlands.

14A.154.040 Title and Plat Notification.

For regulated activities where a Habitat Assessment or Habitat Management Plan has been prepared as part of the proposal's environmental review, the owner of the site shall record a notice of the reports with the Pierce County Auditor so that information is known if the property ownership changes.

A. Title Notification.

The owner of any site where a habitat assessment or habitat management plan has been prepared for a development proposal shall record a notice with the Pierce County Auditor in the form set forth below:

Form of Notice:

FISH AND WILDLIFE HABITAT AREA NOTICE

Parcel Number:

Address:

Legal Description:

Present Owner:

Notice: This site lies within/ contains a critical fish and wildlife habitat area as defined by Chapter 14A.154 of the Lakewood Municipal Code. The site was the subject of a development proposal for

application number

filed on
(date).

Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of the fish and wildlife habitat area and any restriction on use.

Signature of Owner(s)

Date

(NOTARY ACKNOWLEDGMENT)

B. Plat Notification.

For all proposed short subdivision and subdivision proposals within critical fish and wildlife habitat areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

Notice: *This site lies within/ contains a critical fish and wildlife habitat area as defined in Chapter 14A.154 of the Lakewood Municipal Code. Restrictions on use and alteration of the site may exist due to natural conditions of the site and resulting regulation.*

14.154.050Habitat Protection for Rivers and Streams.

Regulated activities proposed along rivers and streams shall provide for habitat protection.

A. Habitat Protection for Rivers and Streams Shall be Provided Through Buffers.

1. The buffer, consisting of undisturbed natural vegetation, shall be required along all streams, as classified by the DNR water typing classification system (WAC 222-16-030). The buffer shall extend landward from the ordinary high water mark of the water body.

2. The buffer of a river or stream shall not extend landward beyond an existing substantial improvement such as an improved road, dike, levee, or a permanent structure which reduces the impact proposed activities would have on the river or stream.

3. Buffer widths shall be as established by this Chapter or as required by LMC 18A.40.230 for Riparian Overlay areas, whichever is greater.

B. Critical Fishery Rivers and Streams Requiring Buffers. The following river and stream (segments) have been identified by the various Indian tribes, particularly the Puyallup Tribe, as being critical to anadromous fish and, therefore, requiring a larger buffer protection. Critical fishery rivers and streams include:

Stream Name	WRIA #	Buffer Width	Tribe
		In Feet	Identifying
Chambers Creek-	12.0007	150	Puyallup
Clover Creek	12.0007	50	

C. Other Rivers and Streams Requiring Buffers. For rivers and streams other than Chambers and Clover Creek, a habitat protection buffer shall be provided as outlined in LMC Section 18A.40.230 (Riparian Overlay Zone), or 35 feet, whichever is greater.

14A.154.060 Habitat Protection for Lakes.

A. Regulated activities proposed on lakes that are urban in character will not be subject to the buffering requirements of this Chapter. The following lakes are urban in character:

American
Gravelly
Louise
Steilacoom

For proposed regulated activities on lakes that are subject to the State Shoreline Management Act, habitat protection shall be provided through education, voluntary agreements, and existing laws as referenced in 14A.154.030.B, and regulation via the City's Shoreline Master Program and Shoreline Management Regulations.

B. Regulated activities proposed on lakes that are not subject to the State Shoreline Management Act shall be subject to a 35 foot buffer requirement. The buffer, consisting of undisturbed natural vegetation, shall extend landward from the ordinary high water mark of the water body. Existing laws as referenced in Section 14A.154.030.B may also affect such proposals.

14A.154.070 Habitat Protection for Ponds

Regulated activities proposed on ponds will not be subject to the buffering requirements of this Section. Habitat protection for ponds shall be provided through education, voluntary agreements and existing laws as referenced in 14A.154.030.B. Ponds shall be regulated as wetlands where appropriate.

14A.154.090 Provisions for Fish and Wildlife Habitat Buffers, Where Required.

A. Building Setback and Construction near Buffer. A minimum setback of eight (8) feet from the buffer shall be required for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within eight feet of the buffer shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged.

B. Marking of the Buffer Area. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to and through completion of construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground.

C. Fencing from Farm Animals. The Director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Director shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence around the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as not to interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

D. Enhancements to natural buffers consistent with the education program (such as re-vegetation or nest boxes) are allowed.

E. Allowable Activities Within Buffers. The following activities may occur within the buffer after notification to the Department, provided that any other required permits are obtained.

1. Removal of diseased trees and trees that present an imminent threat to properties. The Director may require a written report by a registered landscape architect, certified nursery professional, or certified arborist assessing the condition of any tree that is purported to be diseased or hazardous.

2. Repair of existing fences.

3. Construction, reconstruction, remodeling, or maintenance of docks and bulkheads as authorized and pursuant to the Shoreline Management Regulations.

4. Construction of a pervious path for purposes of private access to the shoreline.

5. Trimming of vegetation for purposes of providing view corridors, provided that trimming shall be limited to view corridors of 20 feet or less and provided that benefits of the buffer to fish and wildlife habitat are not reduced. Trimming shall be limited to pruning of branches and vegetation. Trimming shall not include felling or removal of trees.

6. Construction of public trails.

7. Roadways, bridges, rights-of-way, and utility lines where no feasible alternative exists, and where the development minimizes impacts on the stream and buffer area. Clear documentation explaining the lack of alternatives and measures taken to minimize impacts on the critical area and buffer shall be provided to the Community Development Department prior to approval.

Chapter 14A.158

FLOOD HAZARD AREAS

Sections:

14A.158.010 Purpose.

14A.158.020 Designation

14A.158.030 Protection

14.158.010Purpose.

The purpose of this section is to:

A. Promote the general health, welfare and safety of the city's residents.

B. Prevent the establishment of certain structures and land uses unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards.

C. Minimize the need for rescue and relief efforts associated with flooding.

D. Help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions

E. Minimize damage to public facilities and utilities located in flood hazard areas.

F. Ensure that potential home and business buyers are notified that property is in a flood area.

G. Minimize expenditure of public money for costly flood relief and control projects.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

14A.158.020 Designation.

All Areas of Special Flood Hazard shall be as identified in the scientific and engineering report entitled "The Flood Insurance Study for Pierce County," dated August 19, 1987, or as amended, with accompanying Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA).

14A.158.030 Protection.

All development in Areas of Special Flood Hazard shall be regulated according to the City's Site Development Regulations, and Section 18A.40.100, Flood Hazard Overlay, of the City's Land Use and Development Code.

CHAPTER 14A.162

WETLANDS AREAS

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14A.162.010 Purpose.

The purpose of these regulations is to avoid, or in appropriate circumstances, to minimize, rectify, reduce or compensate for impacts arising from land development and other activities affecting wetlands, and to maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, education, and historic and cultural preservation. When avoiding impacts is not reasonable, mitigation shall be implemented to achieve no net loss of wetlands in terms of acreage, function and value.

14A.162.020 Designation of Wetland Areas.

The City will require the use of the following documents to determine the presence or absence of potential wetlands:

- a. Federal Manual for Identifying and Delineating Jurisdictional Wetlands, Corps of Engineers Wetlands Delineation Manual, 1987 Edition and corresponding guidance letters; and
- b. Washington State Wetlands Identification and Delineation Manual, March 1997 Edition (DOE Publication 96-94).

14A.162.030 Wetland Categories.

In order to provide information on the functions and values of wetlands in a time- and cost-effective way, wetland analysis reports shall categorize wetlands by their attributes and characteristics. Wetlands shall be rated using the latest adopted version of the *Washington State Wetland Rating System for Western Washington* published by the Washington State Department of Ecology. ("State Wetland Rating System").

The State Wetland Rating System provides the detailed criteria for establishing wetland categories. Wetlands are generally designated as follows:

Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands in the region. The following are considered Category I wetlands:

- Bogs
- Mature and Old-growth Forested Wetlands
- Wetlands That Perform Many Functions Very Well- Wetlands scoring 70 points or more (out of 100) using the *Washington State Wetland Rating System for Western Washington*, Ecology Publication # 04-06-025.

Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands in western Washington include "Wetlands That Perform Functions Well"- Wetlands scoring between 51-69 points (out of 100) using the *Washington State Wetland Rating System for Western Washington*. Wetlands scoring 51-69 points were judged to perform most functions relatively well, or performed one group of functions very well and the other two moderately well.

Category III wetlands are wetlands with a moderate level of functions (scores between 30 -50 points) using the *Washington State Wetland Rating System for Western Washington*. Category III wetlands usually have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

Category IV wetlands have the lowest levels of functions (scores less than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. These wetlands may provide some important functions.

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14.162.040 Regulated Activities.

A list of regulated activities is included in Section 14A.142.070 of the General Provisions section of this Title.

14.162.050 Exemptions.

A list of exempt activities is included in Section 14A.142.080 of the General Provisions section of this Title.

14A.162.060 Special Permitted Uses

- A. The following uses are normally regulated but may be allowed, subject to a Process I administrative determination by the Director, provided the listed criteria are met.
- B. Educational and Recreational Facilities.

Minor structural fill may be allowed for the construction and enhancement of public trails, such as bridging, and trail-related facilities such as benches, interpretive signs, and viewing platforms. Construction of such features on all previously filled areas is allowed. The following conditions must be met:

1. An alternative location outside the wetland is not feasible. Trails and related facilities within wetlands shall, to the extent possible, be placed on other previously disturbed areas;
2. Associated facilities, such as interpretive centers, restrooms, or parking areas are not allowed within wetlands or buffers by this Conditional Exemption;
3. The fill on which the trails or trial-related facilities is placed is limited to the minimum dimensions necessary for the actual crossing and shall not cover more than 5,000 square feet of wetland area;
4. Project design shall minimize adverse impacts to wetlands/buffers and wildlife habitat. Pervious surfaces shall be used;
5. All construction work in the wetland shall be done during the summer dry season (July 15 to October 15). A time extension may be granted by the Department;
6. Native vegetation disturbed by trail construction activities shall be salvaged and replanted in the disturbed areas to the extent feasible.

C. Minor road or trail crossings.

Fills for the construction of a road or trail crossing shall be allowed in wetlands or buffers provided that crossings of wetlands shall be avoided to the extent possible. Fills for the construction of a road crossing through a Category I wetland shall not be allowed by this Conditional Exemption. Crossings shall follow the following criteria:

1. An alternative location outside the wetland is not reasonably feasible;
2. The fill on which the road or trail is placed is limited to the minimum dimensions necessary for the actual crossing;
3. The fill placed in wetlands is shall not cover more than 5,000 square feet of wetland area;
4. Crossings shall utilize design which minimizes the adverse impacts to the wetland and hydrology of the existing system;
5. Wetland disturbance shall be limited to no greater than five feet beyond the designated toe-of-fill;
6. All construction work in the wetland shall be done during the summer dry season (July 15 to October 15). A time extension may be granted in writing by the Department ; and
7. Crossing shall serve multiple purposes and properties, whenever possible.

D. Erosion Control.

Bank stabilization activities necessary for erosion prevention shall be allowed in buffers and Category II, III, and IV wetlands as part of a single and complete project. Bank stabilization projects shall meet all other applicable local, state and federal laws and the following criteria:

1. The minimum amount of material needed for erosion prevention is used;
2. The bank stabilization activity is no more than 500 feet in length, 15 feet high, and will not exceed an average of 1/2 cubic yard of fill per running foot of bank;
3. No material is placed in any location or manner that may impair surface water movement into or out of any wetland area or other water body;
4. No material is placed in any location or manner that may be eroded by normal or anticipated high flows; and
5. The disturbed area shall be re-vegetated within 60 days after completion of the project with native species indigenous to the site. Hydro-seeding with approved mix may be used for temporary erosion control.

E. The construction of utility lines and poles in Category II, III or IV wetlands and buffers provided there are no feasible alternatives and impacts are mitigated.

14A.162.070 Delineation, and Wetland Analysis Requirements.

A. Wetland Review Procedures - General Requirements.

1. The Critical Areas Atlas – City Wetland Inventory Maps provide an indication of where potential wetlands are located within the County. The actual presence or location of a potential wetland or a potential wetland that has not been mapped, but may be present on or adjacent to a site shall be determined using the procedures and criteria established in this Chapter.
2. The Department will complete a review of the Critical Areas Atlas – Wetland Inventory Maps and other source documents for any proposed regulated activity to determine whether the project area for a proposed single-family dwelling unit or other proposed development is located in the vicinity of a known wetland. Identification of a potential wetland may also occur as a result of field investigations conducted by Department staff.
3. When the Department's maps, sources, or field investigation indicate that a potential wetland is located within 200 feet of the project area for a proposed one family dwelling unit or other proposed regulated activities, the Department shall require a Wetland Verification Report to determine whether or not a regulated wetland is present and if so, its relative location in relation to the proposed project area or site. The findings of the Wetland Verification Report shall be documented as outlined in Subsections 14A.162.070.B.1 below.

4. If Department staff completes a field investigation and determines that no regulated wetlands are present, then wetland review will be considered complete.

5. If it is determined that a wetland exists within 165 feet of a project site, then a Wetland Analysis Report shall be required. All wetland analysis reports shall include a proposed categorization of the wetland in accordance with the guidelines set forth in Section 14A.162.030, and a calculation of the standard wetland buffer as set forth in Section 14A.162.080.

B. General Wetland Review. General wetland review shall include the submittal of a wetland verification report or a wetland analysis report, together with a wetland review fee as established in the City's Fee Schedule.

1. Wetland Verification Report.

a. A wetland verification report shall be submitted when a field investigation or review of the City's Critical Areas Atlas determines that a regulated wetland may be present within 200 feet of the site.

b. A wetland verification report may determine that:

(1) No regulated wetland is, in fact, present within 200 feet of the project site; or,

(2) Wetlands are identified but are evaluated and found to be non-regulated; or

(3) A regulated wetland is present within 200 feet of the project site, in which case a Wetland Analysis Report may be required to determine the limits of the wetland, its classification and appropriate buffer width and other appropriate mitigations necessary to protect the wetland functions and values; or,

(4) A regulated wetland is present, however categorization can be summarily determined and it is apparent that the standard buffer does not extend within the site; or

c. The wetland verification report shall include data sheets, site maps, and other field data and information necessary to confirm wetland presence or absence and category. If non-regulated wetlands are identified, a site plan must be provided that identifies their location.

d. The wetland verification report shall identify and discuss wetland boundaries within the site as well as those that extend offsite. Offsite wetlands and associated standard buffers do not have to be marked in the field.

e. Department staff shall review the wetland verification report and either:

(1) Accept the report and approve the wetland application; or

(2) Reject the report and require the submittal of a wetland analysis report.

2. Wetland Analysis Report.

a. If a regulated wetland or its standard buffer extends onto the site, the Department shall require a wetland analysis report. Information required in a wetland analysis report is identified in Appendix C of the *Critical Areas Regulations- Administrator's Manual*.

b. If the Department determines that a Category I wetland is onsite which is associated with documented habitat for endangered, threatened, or sensitive species or for potentially extirpated plant species recognized by State or Federal agencies, the Department shall

also require the submittal of a habitat assessment report as set forth in Chapter 14A.154.030.B

c. If the Department determines that additional mitigation is necessary to offset the identified impacts, the applicant shall comply with the additional mitigation requirements set forth in the Wetland Analysis Report, biological assessment, or SEPA determination.

d. The Department shall review and approve the wetland analysis report to determine the appropriate wetland category and buffer, and shall include the wetland in the City's Wetland Atlas. The Department shall approve the report's findings and proposals unless specific, written reasons are provided which justify not doing so.

e. Approval of the wetland review shall be concluded upon a determination that the wetland analysis report and mitigation plan, if applicable, are thorough and accurate, and meet all requirements of this Title, and that the monitoring program and contingency plan are tied to an acceptable financial guarantee as set forth in Section 14A.142.150 to assure that the requirements will be followed.

14A.162.080 Protection Standards- Establishing Buffers.

A. Buffer widths shall be determined according to the following table:

<u>Wetland Category</u>	<u>Buffer Width</u>
<u>I</u>	<u>200 feet</u>
<u>II</u>	<u>100 feet</u>
<u>III</u>	<u>75 feet</u>
<u>IV</u>	<u>50 feet</u>

B. Buffer widths may be modified by averaging, reducing, or increasing.

1. Buffer width averaging may be allowed only where the applicant demonstrates the following:

- a. Buffer encroachment is unavoidable.
- b. A habitat assessment has been submitted which demonstrates that the site does not provide habitat for any endangered, threatened, or sensitive fish or animal species; or,
- c. For wetlands and/or required buffers associated with documented habitat for endangered, threatened, or sensitive fish, or wildlife species, a habitat assessment report has been submitted that demonstrates that the buffer modification will not result in an adverse impact to the species of study.
- d. The wetland contains variations in sensitivity due to existing physical characteristics; and
- e. Width averaging will not adversely impact the wetland or critical fish and wildlife habitat; and
- f. The total buffer area after averaging is no less than the buffer area prior to averaging; and

g. The minimum buffer width will not be less than twenty-five percent of the widths established in 14A.162.080.A above.

h. The averaging is accomplished within the project boundaries.

i. Buffer width averaging shall only be permitted where it is shown that there is no feasible alternatives to the site design that could be accomplished without buffer averaging.

2. Buffer width reduction may be allowed only where the applicant demonstrates the following circumstances. Such reduction shall not result in greater than a thirty-five percent (35%) reduction in the buffer width established in 14A.162.080.A. and shall result in a buffer no less than 30 feet in any case.

a. The proposed buffer area is extensively vegetated and has less than fifteen percent slopes, and the reduction will not result in adverse impacts to the wetland; or

b. The project includes a buffer enhancement plan, as part of the mitigation required by Section 14A.162.100. The buffer enhancement plan shall use plant species which are indigenous to the project area, and shall substantiate that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetland functional values; or

c. The acreage included in the buffer would substantially exceed the size of the wetland and the reduction will not result in adverse impacts to the wetland or the project includes a buffer enhancement plan which ensures that the reduction will not result in adverse impacts to the wetland.

3. The Department may require increased buffer width when a larger buffer is necessary to protect wetland functions and values based on local conditions. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:

a. A larger buffer is necessary to maintain viable populations of existing species; or

b. The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas; or

c. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or

d. The adjacent land has minimal vegetative cover or slopes greater than fifteen percent.

C. Buffers shall be measured perpendicular from the wetland edge.

D. When buffer boundaries have been determined, they shall be marked in the field by a licensed surveyor. The markers shall be clearly visible, durable, and permanently affixed to the ground.

E. A building setback line of eight (8) feet shall be required from the edge of a buffer.

F. Except as otherwise specified, buffers shall be retained in a natural condition.

G. A wetland buffer shall not be required to extend beyond an existing substantial improvement such as an improved road, dike, levee, or a permanent structure, where the existing improvement obviates the beneficial impact that the buffer would provide for the wetland.

14A.162.090 Protection Standards for Allowing Regulated Activities in Wetlands and Buffers.

III A. Regulated activities in Category III and IV wetlands and/or buffers for Category III and IV wetlands may be allowed when the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated according to Section 14A.162.100;

B. The placement of access roads, utility lines, and utility poles may be allowed in buffers for Category II wetlands if the following conditions are met:

1. There is no feasible alternative location for an access road and/or utilities to the site; and

2. The applicant demonstrates that all adverse impacts to wetlands will be mitigated according to a mitigation plan which complies with Appendix C.

C. The following activities may be allowed in a buffer without a complete mitigation plan if the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated according to Section 14A.162.100. In cases that require environmental review, a threshold environmental determination may not be made until the Department is satisfied that adequate mitigation will occur. The allowed activities are as follows:

1. One well and necessary appurtenances, including a pump and appropriately sized pump house, but not including a water storage tank (unless the water storage tank can be contained within the pump house), may be allowed on each site in a buffer if all the following conditions are met:

a. The pump house is a one story building with a ground area of less than 220 square feet; and

b. The well is more than 75 feet deep; and

c. For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is no less than fifty percent of the buffer widths established in the table in Section 14.162.070 A.; and

d. Access to the well and pump house shall be by a pervious trail for pedestrian traffic only, or, if necessary, by an unimproved access for a maintenance vehicle.

2. Pervious trails and associated viewing platforms, provided that in the case of Category I wetlands the minimum distance from the wetland edge is no less than fifty percent of the buffer width established in the table in Section 14.162.070 A.

3. The placement of utility lines which do not require excavation, or utility poles, in any part of a buffer for a Category II, III, or IV wetland. They may be placed in a buffer for a Category I wetland, provided that the minimum distance from the wetland edge is no less than fifty percent of the Category I buffer width established in the table in Section 14.162.070 A.

4. Activities within that area of a buffer in which a direct line to the wetland is obstructed by an existing substantial improvement such as an improved road or a permanent structure, the presence of which significantly reduces the likely impact of the proposed activity on the wetland.

A zoning certification, building permit, and/or site development permit shall not be issued for these regulated activities until the applicant demonstrates to the satisfaction of the Department that all adverse impacts to wetlands will be mitigated according to Section 14A.162.100.

D. Reasonable Use Exception- Category I and II Wetlands: Regulated activities in Category I and II wetlands and/or buffers for Category I and II wetlands may be allowed only if, following a public hearing, the Hearing Examiner determines that a reasonable use exception is warranted pursuant to LMC Section 14A.142.080, and the following criteria are met:

1. No reasonable use with less impact on the wetland is possible; and
2. There is no feasible on-site alternative to the proposed activities, including phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning and density considerations, that would allow a reasonable economic use with less adverse impacts to wetlands; and
3. The proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and existing contours, vegetation, fish and wildlife resources, and hydrological conditions; and
4. The disturbance of wetlands has been minimized by locating any necessary activities outside the wetland to the extent possible; and
5. The proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats; and
6. The proposed activities will not cause significant degradation of groundwater or surface water quality; and

7. The proposed activities comply with all state, local and federal laws, including, but not limited to, those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal; and
 8. Any and all regulated activities in wetlands and buffers will be mitigated according to Section 14A.162.100. The Examiner may require the preparation of a formal mitigation plan; and
 9. There will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and
 10. The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this Chapter.
- E. Reasonable Use Provision, Categories III and IV Wetlands: If an applicant for a regulated activity on a Category III or IV wetland and/or associated buffer cannot obtain permission through the procedures described in 14A.162.090 A. and 14A.162.090 C., the activity may be allowed if, following a public hearing, the Hearing Examiner determines the criteria of 14.162.090 D. are met.

14.162.100 Mitigation.

- A. All activities in wetlands and/or buffers shall be mitigated according to this Section. Usually, mitigation is considered in order of preference, however there may be circumstances when an alternative mitigation strategy is preferable.

The order of preference for mitigation is:

1. Avoiding the impact altogether by not taking a certain action or parts of actions, and providing specified buffers and setbacks. Provision of specified buffers and setbacks is the expected method of mitigation unless an activity is listed as exempt, a reasonable use exception has been granted according to the provisions of this Chapter, or an appropriate alternative mitigation program has been approved through a formal mitigation plan.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to reduce impacts;
3. The following types of mitigation (no order of preference):
 - a. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - b. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

c. Compensating for the impact by replacing or providing substitute resources or environments, however compensatory mitigation shall not be required for reasonable use exceptions;

4. Monitoring the impact and compensation and taking appropriate corrective measures.

5. Mitigation for individual actions may include a combination of the above measures.

B. Regulated activities which occur in buffers or within Category III and IV wetlands shall be mitigated according to a mitigation plan approved by the Department. See Appendix D for specific requirements of this mitigation plan. Where environmental review is required, a threshold determination may not be made prior to Department review and approval of the mitigation plan.

C. Compensatory mitigation shall be required for filling wetlands and for other regulated activities in wetlands (except where the filling or other regulated activity has been found to be necessary to provide for reasonable use of a property through the reasonable use exception process). Compensatory mitigation programs shall meet the following minimum requirements:

1. A wetland specialist shall develop a compensatory mitigation plan that provides for construction, maintenance, and monitoring of any replacement wetlands;

2. The applicant and/or applicant's representatives shall demonstrate to the Department sufficient scientific expertise to carry out the compensation project;

3. The compensation area shall be provided with permanent protection and management to avoid further degradation and to provide for the long term persistence of the compensation area as designed.

4. The compensatory mitigation plan shall be completed in two phases, a conceptual phase and a detailed phase.

a. Conceptual Phase. The applicant shall submit to the Department a conceptual mitigation plan for compensatory mitigation. Where environmental review is required, the Department shall not make a threshold determination prior to Department review of the conceptual mitigation plan. See Appendix E for specific requirements of the conceptual mitigation plan.

b. Detailed Phase. Following the Department's approval of the conceptual mitigation plan, the applicant shall submit a detailed mitigation plan for compensatory mitigation to the Department. See Appendix F for specific requirements of the detailed mitigation plan.

5. The detailed mitigation plan shall be signed by the wetland specialist to indicate that the plan is according to specifications determined by the

wetland specialist. A signed original mitigation plan shall be submitted to the Department.

6. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and Department Director or designate, and recorded with the County Auditor. The agreement shall refer to all requirements for the mitigation project.

7. The mitigation project shall be completed according to a schedule agreed upon between the Department and the applicant.

8. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with provisions of this Chapter.

9. On completion of construction for the wetland mitigation project, the wetland specialist shall notify the Department. The Department will inspect and review the construction project prior to acceptance.

14.162.110 New Agricultural Activities.

An applicant may use the following procedure to initiate agricultural activities:

A. Where the Department determines that a regulated wetland may be present within 150 feet of the proposed activity, the applicant shall select one of the following options:

1. The applicant shall provide the Department with a report prepared by a wetland specialist which recommends the appropriate wetland category and includes rationale for the recommendation. The Department will review and approve the wetland category and buffer as follows:

<u>Wetland Category</u>	<u>Buffer</u>
<u>I</u>	<u>150 feet</u>
<u>II</u>	<u>100 feet</u>
<u>III</u>	<u>50 feet</u>
<u>IV</u>	<u>25 feet</u>

2. Alternatively, the Department, upon request, shall determine the appropriate wetland category. The buffer width shall be according to the table in 14A.162.110.A.1

B. The Department will determine whether the activity would intrude into the buffer, the wetland, or both.

1. If the Department determines that the proposed activity may intrude into the wetland and/or buffer, the applicant shall prepare a delineation report subject to approval by the Department; or

2. If the Department determines that the proposed activity may intrude only into the buffer, the Department, upon request, shall delineate the wetland.

C. Following approval of the delineation report or the Department's completion of the delineation, the applicant shall place permanent, clearly visible markers on-site at the edge of the buffer. Placement of markers by a licensed surveyor is not required. No regulated activities shall occur within the wetland and/or buffer except as allowed in 14A.162.110.D. Temporary intrusion into the buffer necessary for construction activities may be allowed if the buffer can be adequately restored. Livestock shall be fenced from the wetland and buffer, unless requirements of 14A.162.110.D are met.

D. Agricultural activities may be initiated:

1. In a buffer, if the applicant demonstrates to the Department that all adverse impacts to wetlands will be mitigated.
2. In the wetland after Department approval of the following reports, which shall be prepared by a wetland specialist obtained by the applicant:
 - (a) A report which recommends the appropriate wetland category and includes rationale for the recommendation, unless the category has already been determined by the Department; and
 - (b) A wetland delineation report, unless a delineation has already been approved by the Department; and
 - (c) A Best Management Plan developed by the Pierce County Conservation District or U.S.D.A. Soil Conservation Service. A wetland specialist shall review the plan and specify mitigation for all impacts to wetlands, other than water quality impacts reviewed by the Conservation District or Soil Conservation Service; and
 - (d) A report prepared by a wetland specialist which demonstrates that the proposed activity:
 - (1) Will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats;
 - (2) Will not cause significant degradation of groundwater or surface water quality; and
 - (3) Will not damage public or private property and will not threaten public health or safety.

14.162.120 Alternative Review Process, Corps of Engineers Section 404 Individual Permits.

- A. The alternative review process outlined below will be used in cases where a Section 404 individual permit is required from the U.S. Army Corps of Engineers. (Refer to 33 CFR § 320.1, § 323.2(g), and § 325.5(b)(1)).
 1. The applicant shall notify the Department when the applicant applies for the Section 404 permit or contacts the Corps concerning a specific project. The applicant shall apprise the Department of the Corps' permitting process, including notifying the Department of all hearings or meetings scheduled to discuss the applicant's project, potential mitigation or approval. The review process of the Corps will substitute for the review process outlined in Section 14A.162.130. The City participation in the Corps' review process does not constitute approval of the applicant's project by the City. The substantive provisions of this Chapter are still applicable and authorization of regulated activities will be approved or denied by the Department based upon those provisions. However, the Department shall consider the mitigation requirements as set forth by the commenting agencies during the Corps' review process and shall concur with that mitigation, if it is functionally equivalent with the requirements of this Chapter.
 2. The applicant shall submit the information specified in Section 14A.162.070 and 14A.162.100 to the Department when filing for

the Corps permit. The Department may also require the submittal of any additional information deemed necessary.

3. Notice of Application: A notice of application will be required for any permit applications subject to LMC 18A.02.670.

14A.162.130 Wetland Review Procedure, Fees, and Title Notification.

- A. **Procedure.** The provisions of this section regarding wetlands regulation shall be incorporated and integrated into other City permitting requirements including, but not limited to , the review and issuance of zoning certifications, site development permits, clearing and grading permits, building permits, environmental reviews under SEPA, administrative and conditional use permits, shoreline permits and subdivisions.
- B. **Fees.** Each applicable fee shall be payable at the time the applicant submits an application or document to which a fee applies according to the City's Fee Schedule.
- C. **Notice on Title.** When the City determines that activities not exempt from this Chapter are proposed, the property owner shall file for record with the Pierce County Auditor a notice approved by the Department in a form substantially as set forth below. The notice shall provide notice in the public record of the presence of a wetland or buffer, the application of this Chapter to the property, and that limitations on actions in or affecting such wetlands and buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any land use proposal for the site.

Notice on title is not required for utility line easements on lands not owned by the jurisdiction conducting the regulated activity.

Form of notice:

WETLAND AND/OR WETLAND BUFFER NOTICE

Tax Parcel Number: _____

Name: _____

Address: _____

Legal Description: _____

NOTICE: This property contains wetlands or wetland buffers as defined by the City Code 14.162. Restrictions on use or alteration of the wetlands or wetland buffers may exist due to natural conditions of the property and resulting regulations.

Signature of owner _____

Date: _____

(NOTARY ACKNOWLEDGMENT)

- D. Wetland Tract.**

1. Prior to final approval of any development application on a property containing a wetland or wetland buffer, the part of the wetland and/or buffer which is on the site shall be placed in a separate wetland tract or tracts, protective easement, public or private land trust dedication, or similarly preserved through an appropriate permanent protective mechanism as determined by the City. All wetland tracts, protective easements, land trust dedications and other similarly preserved areas shall remain undeveloped in perpetuity, except as they may be allowed to be altered pursuant to this Chapter.
 2. Prior to final approval of any development application on a property containing a wetland or wetland buffer, the common boundary between a wetland tract, protective easement, land trust dedication, or other similarly preserved area and the adjacent land shall be permanently identified with permanent signs. Sign locations, wording, and size and design specifications shall be as required by the Department.
 3. At any time after a wetland tract, protective easement, land trust dedication, or other similarly preserved area has been established, the owner may submit a delineation report to the Department. If the Department determines that a boundary change has occurred, or that a wetland no longer exists, the wetland tract, protective easement, land trust dedication, or other similarly preserved area may be altered or eliminated, as appropriate. If the Department determines that wetland boundaries have changed or that a wetland has been eliminated due wholly or in part to illegal activity, a change or elimination of wetland tract, protective easement, land trust dedication, or other similarly preserved area shall not be permitted.
 4. A wetland tract, protective easement, land trust dedication, or other similarly preserved area is not required for utility lines in easements on lands not owned by the jurisdiction conducting the regulated activity.
- E. **Review and Approval.** Provisions for the protection of wetlands in conjunction with regulated activities shall be reviewed and approved by the Department. Approval shall be granted upon a determination that the wetland analysis report and mitigation plan meet all applicable requirements of this Chapter, and that the monitoring program and contingency plan are tied to an acceptable financial guarantee to assure that the requirements will be complied with.
- F. **Expiration.** Approvals shall be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the Department. An extension of an original approval may be granted upon submittal of a written request to the Department prior to expiration. Prior to the granting of an extension, the Department may require updated studies if, in its judgment, the original intent of the approval is altered or enlarged by the renewal, if the circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original approval.



14A.165 Definitions.

For the purpose of this Title, the following definitions shall apply:

"Abutting" means bordering upon, to touch upon, in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

"Activity" means any use conducted on a site.

"Agricultural activities" means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter 76.09 RCW, Title 222 WAC are not included in this definition.

"Alluvial geologic unit" means geologically recent stream, lake, swamp and beach deposits of gravel, sand, silt and peat.

"Animal Containment Area" means a site where two or more animal units of large animals per acre or .75 of an animal unit of small animals per acre are kept, and where a high volume of waste material is deposited in quantities capable of impacting groundwater resources.

"Animal Unit" means the equivalent of 1000 pounds of animal.

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development on a site.

"Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

"Aquifer recharge area" means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater with potential to be used for potable water. For the purposes of this Title, all of the area located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.

"Aquifer Susceptibility" means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "100-year flood."

"Best management plan" means a plan developed for a property which specifies best management practices for the control of animal wastes, stormwater runoff, and erosion.

"Buffer" means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.

"Building footprint" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

"Class" means one of the wetland classes used to categorize wetlands by their attributes and characteristics. Wetlands shall be rated using the latest adopted version of the *Washington State Wetland Rating System for Western Washington* published by the Washington State Department of Ecology.

"Class I Injection Well" means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within 1/4 mile of the well bore, and underground source of drinking water.

"Class II Injection Well" means a well used to inject fluids: Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewater's from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection. For enhanced recovery of oil or natural gas; or for storage of hydrocarbons that are liquid at standard temperature and pressure.

"Class III Injection Well" means a well used for extraction of minerals, including but not limited to the injection of fluids for: In-situ production of uranium or other metals that have not been conventionally mined; Mining of sulfur by Frasch process; or Solution mining of salts or potash.

"Class IV Injection Wells" means a well used to inject dangerous or radioactive waste fluids.

"Class V Injection Wells" means all injection wells not included in Classes I, II, III, or IV.

"Classification" means defining value and hazard categories to which critical areas and natural resource lands will be assigned.

"Clearing" means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth's surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved Forest Practices Application/notification issued by the Department of Natural Resources.

"Cliff" means a steep vertical or overhanging face of rock or earth greater than 25 feet in height.

"Compensatory mitigation" means mitigation to compensate for loss of wetland habitat due to filling of wetlands or other regulated activities in wetlands.

"Confined aquifer" means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

"Confining Formation" means the relatively impermeable formation immediately overlying an artesian aquifer.

"Contaminant" means any chemical, physical, biological, or radiological substance that does not occur naturally or occurs at concentrations and duration as to be injurious to human health or welfare or shown to be ecologically damaging.

"Critical Aquifer Recharge Area" means areas that are determined to have a critical recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

"Critical areas" means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas as defined in this chapter.

"Critical facilities" means those facilities occupied by populations or which handle dangerous substances including but not limited to hospitals, medical facilities; structures housing, supporting or containing toxic or explosive substances; covered public assembly structures; school buildings through secondary including day-care centers; buildings for colleges or adult education; jails and detention facilities; and all structures with occupancy of greater than 5,000 people.

"Degraded" means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.

"Delineation" means a wetland study conducted in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1989 edition (Unified Federal Manual) and the Washington State Wetlands Identification and Delineation Manual, March 1997 Edition (DOE Publication 96-94).

"Delineation report" means a written document prepared by a wetland specialist which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.

"Department" means the City of Lakewood Department of Community Development.

"Designation" means taking formal legislative and/or administrative action to adopt classifications, inventories, and regulations.

"Developed Lot" means any lot developed with a primary use and structure(s), not generally subject to further development with additional units or other primary uses.

"Development" means any human-induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property.

"Director" means the Director of the Department of Community Development or his/her designee.

"DRASTIC" means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility.

"**Ecotone**" means a transition area between two adjacent vegetation communities.

"**Erosion**" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

"**Erosion hazard areas**" means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

"**Earth/earth material**" means naturally occurring rock, soil, stone, sediment, or combination thereof.

"**Enhancement**" means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing non-indigenous plant or animal species, removing fill material or solid waste).

"**Excavation**" means the mechanical removal of earth material.

"**Existing**" means those uses legally established prior to incorporation whether conforming or nonconforming.

"**Extirpation**" means the elimination of a species from a portion of its original geographic range.

"**Fill/fill material**" means a deposit of earth material, placed by human or mechanical means.

"**Filling**" means the act of placing fill material on any surface, including temporary stockpiling of fill material.

"**Fish and wildlife habitat areas**" means those areas identified as being of critical importance to maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity, or private organization; state natural area preserves and natural resource conservation areas.

"**Fisheries biologist**" means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years professional experience as a fisheries biologist.

"**Flood or Flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Floodfringe" means the area subject to inundation by the base flood, but outside the limits of the floodway, and which may provide needed temporary storage capacity for flood waters.

"Flood hazard areas" means areas of land located in floodplains which are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

"Floodplain" means the total area subject to inundation by the base flood, including the floodfringe and the floodway areas.

"Floodway" means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast-flowing water.

"Geological assessment" means an assessment prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering or prepared by a professional geologist, hydrologist, or soils scientist, who has earned the related bachelor's degree from an accredited college or university, or equivalent educational training, and has a minimum of five (5) years experience assessing the relevant geologic hazard. A geological assessment must detail the surface and subsurface conditions of a site and delineate the areas of a property that might be subject to specified geologic hazards.

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, may pose a risk to the siting commercial, residential, or industrial development consistent with public health or safety concerns.

"Geotechnical report" means a report prepared by a professional engineer licensed by the State of Washington with expertise in geotechnical engineering, evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.

"Grading" means any excavating, filling, clearing, creating (or combination thereof) of impervious surfaces.

"Ground amplification" means an increase in the intensity of earthquake induced ground shaking which occurs at a site whereby thick deposits of unconsolidated soil or surficial geologic materials are present.

"Groundwater" means all water found beneath the ground surface, including slowly-moving subsurface water present in aquifers and recharge areas.

"Groundwater Management Area" means a specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a ground water management program is required.

"Groundwater management program" means a comprehensive program designed to protect ground water quality, to assure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state

objectives, policies and authorities within a designated ground water management area or subarea and developed pursuant to Chapter 173-100 WAC.

"Habitat assessment" means a report prepared by a professional wildlife biologist or fisheries biologist, which identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.

"Habitat management plan" means a report prepared by a professional wildlife biologist or fisheries biologist, which discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.

"Habitat of local importance" means an area, range or habitat within which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. Examples include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration. The Lakewood City Council may designate specific Habitats of Local Importance by ordinance or resolution.

"Hazardous Substance(s)" means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in Chapter 173-303-090 or 173-303-100 WAC.

"Hazardous Substance Processing or Handling" means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five (5) gallons in volume per container. Hazardous substances shall not be disposed on-site unless in compliance with Dangerous Waste Regulations, Ch. 173-303 WAC, and any pertinent local ordinances, such as sewer discharge standards.

"Hazardous waste" means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter 70.105 RCW and Chapter 173-303 WAC.

1. **"Dangerous waste"** means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:
 - a. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
 - b. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
2. **"Extremely hazardous waste"** means any waste which:
 - c. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard

and may be concentrated by living organisms through a food chain or may affect the genetic make-up of humans or wildlife, and

- d. Is disposed of at a disposal site in such quantities as would present an extreme hazard to humans or the environment.

"Hazardous Waste Treatment and Storage Facility" means a facility that treats and stores hazardous waste and is authorized pursuant to Ch. 70.105 RCW, Ch. 173-303 WAC. It includes all contiguous land and structures used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of hazardous waste. Treatment includes using physical, chemical, or biological processing of hazardous wastes to make such waste non-dangerous or less dangerous and safer for transport, amenable for energy or material resource recovery. Storage includes the holding of waste for a temporary period but not the accumulation of waste on the site of generation as long as the storage complies with applicable requirements of Ch. 173-303 WAC.

"Hydrologically isolated wetland" means a wetland which:

1. Is not contiguous to any 100-year floodplain of a lake, river or stream; and
2. Has no contiguous surface hydrology, hydric soil or hydrophytic vegetation between the wetland and any other wetland or stream system.

"Hydrogeologic Assessment" means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of groundwater supplies.

"Hydrologic soil groups" means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups: A, with low runoff potential and a high rate of water transmission; B with moderate infiltration potential and rate of water transmission; C, with a slow infiltration potential and rate of water transmission; and D, with a high runoff potential and very slow infiltration and water transmission rates.

"Impervious Surface" means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

"Infiltration" means the downward entry of water into the immediate surface of soil.

"In-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

"Lakes" means impoundments of open water 20 acres or larger in size.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

"Landslide" means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.

"Landslide hazard areas" means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

"Large Animal" means an animal with an average weight of 100 pounds or more.

"Liquefaction" means a process by which a water-saturated granular (sandy) soil layer loses strength because of ground shaking commonly caused by an earthquake.

"Long-term commercial significance" means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

"Minerals" means gravel, sand, and valuable metallic substances.

"Mineral resource lands" means lands primarily devoted to the extraction of minerals or which have known or potential long-term commercial significance for the extraction of minerals.

"Mitigation" means to avoid, minimize or compensate for adverse environmental impacts. "Mitigation" includes:

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

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

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

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

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

(6) Monitoring the impact and taking appropriate corrective measures.

"Natural resource lands" means mineral resource lands which have long-term commercial significance.

"Oregon White Oak" means the species *Quercus Garryana*, also known as a Garry Oak. All references to Oak trees in this Chapter refer to Oregon White Oak. See also "Priority Oregon White Oak Woodland".

"Old growth forests" means stands of at least 2 tree species, forming a multi-layered canopy with occasional small openings; with at least 20 trees/ha (8 trees/acre) > 81 cm (32 in) dbh or > 200 years of age; and > 10 snags/ha (4 snags/acre) over 51 cm (20 in) diameter and 4.6 m (15 ft) tall; with numerous downed logs, including 10 logs/ha (4 logs/acre) > 61 cm (24 in) diameter and > 15 m (50 ft) long. High elevation stands (> 762m [2500ft]) may have lesser dbh [> 76 cm (30 in)], fewer snags [> 0.6/ha (1.5/acre)], and fewer large downed logs [0.8 logs/ha (2 logs/acre) that are > 61 cm (24 in) diameter and > 15 m (50 ft) long

"Ordinary high water" means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of water 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 the effective date of this Chapter or as it may naturally change thereafter. Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the mean high water.

"Out-of-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.

"Perched ground water" means ground water in a saturated zone is separated from the main body of ground water by unsaturated rock.

"Permanent erosion control" means continuous on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.

"Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

"Permeable Surfaces" mean sand, gravel, and other penetrable deposits on the ground which permit movement of groundwater through the pore spaces, and which permit the movement of fluid to the groundwater.

"Person" means an individual, firm, company, partnership, association, corporation, or other legal entity.

"Ponds" means naturally occurring impoundments of open water less than 20 acres in size and larger than 2,500 square feet which maintain standing water throughout the year.

"Potable water" means water that is safe and palatable for human use.

"Prairies" means open areas predominated by native, drought-resistant, grasses, forbs (flowering non-woody plants) and herbs. In Pierce County, prairies are an unusual vegetation regime found in areas of extremely well-drained soils.

"Priority Oregon White Oak Woodland" means forested areas of pure oak, or of oak/conifer associations 1 acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25%. Stands of oaks less than 1 acre in size may also be considered priority habitat when found to be particularly valuable to fish

and wildlife (i.e.; they contain many cavities, have a large diameter at breast height (dbh), are used by priority species, or have a large canopy).

"Private organization" means a nonprofit corporation organized pursuant to RCW 24.03, which includes the planting of game fish among its purposes for organizing as a nonprofit corporation.

"Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

"Qualified ground water scientist" means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria:

- A. Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
- B. Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, profession certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding ground water vulnerability.

"Recharge" means the process involved in the absorption and addition of water to ground water.

"Regolith" means any body of loose, noncemented particles overlying and usually covering the bedrock.

"Restoration" means the re-establishment of a ecological and/or habitat resources and features from a previously disturbed or degraded critical area site.

"Regulated activities" include, but are not limited to, any activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer that require any of the following entitlements from the City: building permit, commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this Chapter. Regulated activities also include those specific activities listed in Section 14A.142.060.

"Recessional outwash geologic unit" means sand and gravel materials deposited by melt-water streams from receding glaciers.

"Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

"Short subdivision" or **"short plat"** means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

"Site" means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed.

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

"Slump" means the downward and outward movement of a mass of bedrock or regolith along a distinct surface of failure.

"Snag-rich areas" means forested areas which contain concentrations of standing dead trees, averaging ten snags or greater per acre, and averaging greater than 15 inches in diameter at breast height.

"Soil Survey" means the most recent National Cooperative Soil Survey for the local area or county by the Soil Conservation Service, United States Department of Agriculture.

"Sole Source Aquifer" means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50% or more of the drinking water for an area without a sufficient replacement available.

"Species of local importance" means species that are of local concern due to their population status or their sensitivity to habitat manipulation.

"Stockpiling" means the placement of material with the intent to remove it at a later time.

"Subdivision" or "formal subdivision" means the division or redivision of land into five (5) or more lots, tracts, parcels, sites, or division for the purpose of sale, lease, or transfer of ownership.

"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of a wetland.

"Temporary erosion control" means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.

"Toe of slope" means a distinct topographic break in slope at the lower-most limit of the landslide or erosion hazard area.

"Top of slope" means a distinct topographic break in slope at the uppermost limit of the landslide or erosion hazard area.

"TPCHD" means the Tacoma-Pierce County Health Department.

"Underground Tank" means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground.

"Unconfined aquifer" means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer".

"Utility line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, communications and sanitary sewers.

"Vadose Zone" is the distance between the land surface and the uppermost aquifer. This distance is also defined as the "depth to water" zone or unsaturated zone.

"View corridor" means an area which affords views of lakes, mountains, or other scenic amenities normally enjoyed by residential property owners.

"Wellhead Protection Area" means the surface and subsurface area surrounding a well or well field that supplies a public water systems through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

"Water table" means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

"Well" means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

"Urban governmental services" include those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic water systems, street cleaning services, and other public utilities associated with urban areas and normally not associated with non-urban areas.

"Urban growth" refers to growth that makes intensive use of the land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. 'Characterized by urban growth' refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

"Wetland" or "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if permitted by the City.

"Wetland specialist" means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or,
2. Four years of related work experience and training, with a minimum of two years experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans.

The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, The City Site Development Regulations, The City Wetland Management Policies, and the requirements of this Chapter.

"Wildlife biologist" means a professional with a degree in wildlife, or certification by The Wildlife Society, or with five years professional experience as a wildlife biologist.

Section 4. That Lakewood Municipal Code Section 18A.40.230 be amended to read as follows:

18A.40.230 - Development Standards - Riparian Overlay

Within the RO, the development standards shall be those of the underlying zoning district. For example, the R2 development standards are applied to property in the R2 zone that falls within the RO. In addition to zoning district standards, the following standards shall apply:

A. Habitat Protection for Rivers and Streams.

1. A buffer, consisting of undisturbed natural vegetation, shall be required along all applicable streams.
2. The buffer shall extend landward as measured horizontally from the ordinary high water mark of the water body and shall include that entire area between the ordinary high water mark and the top of stream bank. The top of the stream bank shall be that line along the highest elevations at the top of a slope above a channel or stream, where the slope changes to less than ten (10) percent.
3. The buffer of a river or stream shall not extend landward beyond an existing substantial improvement such as an improved road, dike, levee, or a permanent structure which reduces the impact that the proposed activities would have on the river or stream.
4. The buffer shall also include that area within the creek's or stream's:
 - a. One hundred (100) year flood zone.
 - b. Associated wetland boundaries and buffers.
 - c. Other related wildlife habitat areas of the creek or stream, not subject to the state Shoreline Management Act.

B. Critical Fishery Rivers and Streams.

Chambers Creek has been identified by the Puyallup Tribe as being critical to anadromous fish and therefore requiring a larger buffer protection. The buffer for this critical fishery stream is one hundred fifty (150) feet from the ordinary high water mark or the top of the streambank as defined in LMC 18A.40.230.A.2, whichever is greater.

C. Building setbacks shall not be less than the following:

1. For Chambers Creek the building setback shall not be less than 150 feet from the ordinary high water mark.
2. For Clover Creek, the buffer width shall be fifty (50) feet from the ordinary high water mark or the top of the streambank, whichever is greater.
3. For ~~Clover Creek~~, Flett Creek, Leach Creek, and Ponce de Leon Creek the buffer width shall be thirty-five (35) feet from the ordinary high water mark or the top of the streambank, whichever is greater.

Section 5. That the Community Development Director is hereby authorized to develop and maintain an Administrator's Manual consisting of appendices as referenced in the proposed Critical Areas Regulations, a copy of which is maintained by the Community Development Department and shall be made available to the public upon request.

Section 6. That if any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 7. That this Ordinance shall be in full force and effect on January 1, 2005, and at least five (5) days after publication of the Ordinance Summary, as required by law.

ADOPTED by the City Council this 15th day of November, 2004.

CITY OF LAKEWOOD

Attest:

Douglas G. Richardson, Mayor

Alice M. Bush, CMC, City Clerk

Approved as to Form:

Heidi Ann Wachter, City Attorney

[Council meeeting minutes of 01/08/20](#)

ORDINANCE NO. 264

AN ORDINANCE of the City Council of the City of Lakewood, Washington Adopting a new zoning and land use code, codified as Title 18A of the Lakewood Municipal Code, including recodification of Ordinance Number 258, and adopting a new Section 1.44.040 of the Lakewood Municipal Code, amending Sections 1.36.010, 1.36.090, 1.36.110, 1.36.130, 1.36.140, 1.36.150, 1.36.160, 1.36.210, 1.36.230, 1.36.250, 1.36.260, 1.36.280, 1.36.290, 8.24.090, and 8.24.100 of the Lakewood Municipal Code, and repealing Title 18 of the Lakewood Municipal Code and repealing Sections 1.36.080, 1.36.100, 1.36.170, 1.36.180, 1.36.190, 1.36.200 and 1.36.220 of the Lakewood Municipal Code, dealing with definitions, enforcement and review, so as to provide consistency with the new provisions of Title 18A of the Lakewood Municipal Code

WHEREAS, since the incorporation of the City of Lakewood it utilized an interim zoning and land use code based to a large extent on Pierce county codes in effect prior to incorporation; and,

WHEREAS, in order to address the needs of the City and to comply with the planning requirements of the State's Growth Management Act, the City Council recently adopted its initial Comprehensive Plan; and,

WHEREAS, because the City has its own unique character it thus also has development, zoning and land use needs different than Pierce County; and,

WHEREAS, in order to assure consistency between the City's new Comprehensive Plan and its zoning and land use regulations, the Lakewood Planning Advisory Board has been studying ways to address development, zoning and land use needs, and has held public hearings and provided forums to receive public input for such development, zoning and land use regulations; and,

WHEREAS, the Planning Advisory Board has also made its recommendations to the City Council for zoning and land use regulations and associated code provisions; and,

WHEREAS, the city Council has also held a public hearing as provided further opportunities for public input on such development, zoning and land use regulations; and,

WHEREAS, having fully studied the issues, aspects and areas of concern regarding zoning and land use regulations in the City, the City Council is ready to adopt its full, non-interim zoning and land use regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON
DO ORDAIN as follows:

1. That a new Title 18A of the Lakewood Municipal Code is created and adopted to read and provide as set forth on the document attached hereto, marked as Exhibit "A"; and incorporated herein by this reference, together with the official zoning maps referenced therein.

2. That a new Section 1.44.040 of the Lakewood Municipal Code is created to read as follows:

1.44.040 Public Nuisances.

A. Any condition which constitutes a public nuisance, as defined by the statutes of the State of Washington, or which has been declared a public nuisance or a health and/or safety hazard under any section of the LMC, may be abated by the City, as provided in RCW 7.48.

B. Any person who causes, maintains, or allows the continuation of any nuisance shall be deemed guilty of a misdemeanor, which shall be punishable as provided in RCW 9.66.

3. That Section 1.36.010 of the Lakewood Municipal Code is amended to read as follows:

1.36.010 Purpose.

The purpose of this Chapter is to establish a hearing examiner system under the provisions of Chapter 35A.63 RCW to hear and decide applications for amendments to land use regulations and other matters as specifically assigned by ordinance. (Ord. 13 Â§ 1, 1995.)

4. That Section 1.36.090 of the Lakewood Municipal Code is amended to read as follows:

01.36.090 - Decisions Appealable to the Council

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be given the effect of an administrative decision appealable to the Council:

A. Business license decisions and appeals;

B. Appeals from permit denials or conditions imposed on environmental grounds pursuant to the State Environmental Policy Act;

C. Other applications or appeals which the Council may refer by ordinance, specifically declaring that the Hearing Examiner's decision shall be appealable to the Council;

D. Applications for planned development districts;

E. Applications for preliminary plats;

Applications for preliminary plats;

F. Public facilities permits;

GE. Shoreline development permits.

E. Shoreline development permits.

(Ord. 77 Â§ 1, (part) 1996; Ord. 13 Â§ 9, 1995.)

5. That Section 1.36.110 of the Lakewood Municipal Code is amended to read as follows:

1.36.110 Decisions of the Examiner which are Final.

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be final and conclusive:

A. Applications for conditional use Process III permits, except as identified in LMC 18A.02.502 and LMC 1.36.090 ;

B. Applications for variances;

C. Appeals from Process I and II administrative decisions regarding boundary line adjustments except as identified in LMC 18A.02.502 and LMC 1.36.090 ;

Appeals from Process I and II administrative decisions regarding boundary line adjustments except as identified in LMC 18A.02.502 and LMC 1.36.090 ;

D. Appeals from the decisions of the City Manager, or designee, on applications for short subdivisions;

E. Appeals from threshold determinations concerning applications not subject to Council action;

F. Appeals from notices and orders issued as code enforcement actions;

G. Appeals from decisions regarding the abatement of nonconforming uses;

H. Appeals from administrative decisions or determinations by City officials where the governing ordinance provides for an appeal to the Examiner;

I. Appeals from administrative decisions regarding binding site plan applications;

J. Appeals from administrative decisions regarding residential condominium binding site plan applications;

K. Appeals from administrative decisions regarding home occupations;

L.D. Other applications or appeals which the Council may prescribe by ordinance.

D. Other applications or appeals which the Council may prescribe by ordinance.

(Ord. 77 Â§ 1, (part) 1996; Ord. 13 Â§ 10, 1995.)

6. That Section 1.36.130 of the Lakewood Municipal Code is amended to read as follows:

1.36.130 Public Hearing.

A. Before rendering a decision on any application or appeal, the Examiner shall hold at least one public hearing thereon. For applications subject to Council action, the public hearing by the Examiner shall constitute a hearing by the Council.

B. Whenever a project requires more than one permit or approval, the Examiner may order a consolidation of and conduct the required public hearings to avoid unnecessary costs or delays. Decisions of the Examiner to order and conduct consolidated hearings shall be final in all cases.

(Ord. 13 Â§ 13, 1995.)

7. That Section 1.36.140 of the Lakewood Municipal Code is amended to read as follows:

01.36.140 Procedural Notice Requirements.

Unless otherwise provided by ordinance, the City Manager, or designee shall cause notice of the time and place of the public hearing to be mailed to all persons of record at least fourteen (14) calendar days prior to the scheduled hearing. Additional notice shall be given as provided in the ordinance governing the particular type of application or appeal. Public hearings may be continued or reopened by the Examiner with written notice to all persons of record at least fourteen (14) calendar days prior to the rescheduled hearing. Public hearings may be continued by the Examiner without additional written notice provided the continuance is made during open session to a specific date, time, and location. (Ord. 13 Â§ 14, 1995.)

Public hearings may be continued or reopened by the Examiner with written notice to all persons of record at least fourteen (14) calendar days prior to the rescheduled hearing. Public hearings may be continued by the Examiner without additional written notice provided the continuance is made during open session to a specific date, time, and location. (Ord. 13 Â§ 14, 1995.)

8. That Section 1.36.150 of the Lakewood Municipal Code is amended to read as follows:

1.36.150 - Community Development Department Report

When an application or appeal has been set for public hearing, the Community Development Department shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in the subject application or appeal and shall prepare a report summarizing the factors involved and the department findings and recommendation or decision. At least five (5) working days prior to the date of the scheduled hearing, the report, and in the case of appeals any written appeal arguments submitted to the City, shall be filed with the Examiner and copies thereof shall be mailed to all persons of record who have not previously received said materials. (Ord. 77 Â§ 1, (part) 1996; Ord. 13 Â§ 15, 1995.)

9. That Section 1.36.160 of the Lakewood Municipal Code is amended to read as follows:

1.36.160 General Criteria for Examiner Decisions.

A Each decision of the Examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision.

B. The Examiner's findings and conclusions shall set forth and demonstrate the manner in which the decision is consistent with, carries out and helps implement applicable state laws and the regulations, policies, objectives and goals of the comprehensive plan, the approval criteria, developmental standards and regulations of the land use and development zoning code and the subdivision code and other official laws, policies and objectives of the City, and that the

decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

C. The Examiner shall accord substantial weight to the recommendation of the Community Development Department. (Ord. 13 Â§ 16, 1995.)

10. That Section 1.36.210 of the Lakewood Municipal Code is amended to read as follows:

1.36.210 Examiner Actions.

Within ten (10) days of the conclusion of a hearing or rehearing, the Examiner shall render a written recommendation or decision and shall transmit a copy thereof to the City of Lakewood and to all persons of record.

A. The Examiner's decision may be to grant or deny the application or appeal, or the Examiner may grant the application or appeal with such conditions, modifications and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations and the regulations, policies, objectives and goals of the comprehensive plan, the approved criteria, development standard and regulations of the land use and development zoning code and, the subdivision code

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and other ordinance

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, policies and objectives of the City.

B. The conditions, modifications and restrictions that the Examiner may impose include additional setbacks, screenings in the form of landscaping or fencing, covenants, easements and dedications of additional road right-of-way. Performance bonds A cash guarantee, letter of credit or an equivalent measure approved by the City may be required to insure compliance with the conditions, modifications and restrictions.

A cash guarantee, letter of credit or an equivalent measure approved by the City may be required to insure compliance with the conditions, modifications and restrictions.

(Ord. 77 Â§ 1, (part) 1996; Ord. 13 Â§ 21, 1995.)

11. That Section 1.36.230 of the Lakewood Municipal Code is amended to read as follows:

1.36.230 Appeal to Council - Notice.

Decisions by the Examiner on cases subject to Council action may be appealed to the Council by an aggrieved party by filing a notice of appeal with the City Clerk within fourteen (14) calendar days of the date the Examiner's written decision is mailed, together with a filing fee in the amount of fifty dollars (\$50.00) or in such amount as may be specified by resolution of the City Council. If no appeal is filed within fourteen calendar days, the Examiner's decision shall be considered as final and conclusive. (Ord. 13 Â§ 23, 1995.)

12. That Section 1.36.250 of the Lakewood Municipal Code is amended to read as follows:

1.36.250 Appeal to Council - Consideration.

Consideration by the Council of the appeal shall be based upon the record of the Examiner's public hearing and upon written appeal statements based upon the record; provided the Council may allow parties a period of time for oral argument based on the record. The Examiner may conduct a conference with all parties to the appeal for the purpose of clarifying or attempting to resolve certain issues on appeal, provided such conference shall be informal and shall not be part of the public record. If, after consideration of the record, written appeal statements and any oral argument the Council may:

A. Affirm the decision of the Examiner; or

B. Determine that an error in fact or procedure may exist or additional information or clarification is desired, the Council shall remand the matter to the Examiner; or

C. Determine that the recommendation of the Examiner is based on an error in judgment of conclusion, the Council may modify or reverse the decision of the Examiner.

(Ord. 13 Â§ 25, 1995.)

13. That Section 1.36.260 of the Lakewood Municipal Code is amended to read as follows:

1.36.260 Appeal to Council - Council Action.

The Council shall take final action by ordinance or resolution on an Examiner's recommendation on area zoning on any appeal of an Examiner's decision and when doing, the Council shall make and enter findings of fact and conclusions from the record which support its action. Said findings and conclusions shall set forth and demonstrate the manner in which the action is consistent with, carries out and helps implement objectives and goals of the comprehensive plan, the approval criteria, development standards and regulations of the land use and development zoning code and, the subdivision code and other official laws, policies and objectives of the City. The Council may adopt as its own all or portions of the Examiner's findings and conclusions. (Ord. 13 Â§ 26, 1995.)

14. That Section 1.36.280 of the Lakewood Municipal Code is amended to read as follows:

1.36.280 Review of Final Decisions.

A. Decisions of the Council shall be final and conclusive unless appealed pursuant to LMC 18A.02.755 within twenty (20) calendar days, or within thirty calendar (30) days for decisions approving or denying plats, from the date of the Council's action, an aggrieved person applies for a writ of certiorari from the Superior Court in and for the County of Pierce, State of Washington, for the purpose of review of the action taken; provided, no development or related action may occur during said twenty-day, or thirty-day for plat approvals, appeal period.

B. Decisions of the Examiner in cases identified in Section 1.36.110 of this Chapter shall be final and conclusive, unless appealed pursuant to LMC 18A.02.755, within ten (10) days from the effective date of the action, the original applicant or an adverse party makes application to the Superior Court in and for the County of Pierce, State of Washington, for a writ of certiorari, a writ of prohibition, or a writ of mandamus.

C. Notwithstanding the foregoing provisions of this section, final decisions of the Council relating to matters governed by the State Shorelines Management Act shall may be appealed to the State Shorelines Hearing Board as specified in the said Act. (Ord. 13 Â§ 28, 1995.)

15. That Section 1.36.290 of the Lakewood Municipal Code is amended to read as follows:

1.36.290 Precedence Over Conflicting Provisions.

A. If the provisions of this Chapter are in conflict with the provisions of Title 18A of the Lakewood Municipal Code, the provisions of Title 18A shall control.

B. If the provisions of this Chapter are in conflict with the provisions of any other sections of the Lakewood Municipal Code, other than Title 18A, regarding decisions of the Hearing Examiner or review or appeals therefrom, the provisions of this Chapter shall control. (Ord. 77 Â§ 1, (part) 1996.)

If the provisions of this Chapter are in conflict with the provisions of any other sections of the Lakewood Municipal Code, other than Title 18A, regarding decisions of the Hearing Examiner or review or appeals therefrom, the provisions of this Chapter shall control. (Ord. 77 Â§ 1, (part) 1996.)

16. That Section 8.24.090 of the Lakewood Municipal Code is amended to read as follows:

8.24.090 Definitions - II. Vehicle Storage.

The definitions set forth herein and in other Ordinances of the City, as presently existing or as may be hereafter developed or subsequently amended, shall apply to this Chapter and, in addition, the following definitions shall apply:

A. "Apparently Inoperable" means a vehicle that meets the following criteria:

"Apparently Inoperable" means a vehicle that meets the following criteria:

(1) the vehicle is covered or partially covered by moss, leaves, needles or other vegetation, or has grass or other vegetation growing up around the vehicle, or other circumstances exist, so as to support a reasonable belief that the vehicle has not been moved for thirty (30) days or more; or,

(2) the vehicle has any visibly damaged, missing or broken major components, such as, but not limited to, any of the following: windows, windshields, headlights, taillights, mirrors, body panels, hoods, doors, bumpers, trunk lids, driver's seats, steering wheels, grill covers, radiators, or any major mechanical or electrical equipment.

B. "Owner" means any person owning property, as shown on the real property records of Pierce County or on the last assessment role for taxes, and shall also mean any lessee, tenant or other person having control or possession of the property.

"Owner" means any person owning property, as shown on the real property records of Pierce County or on the last assessment role for taxes, and shall also mean any lessee, tenant or other person having control or possession of the property.

C. "Property" means land and any buildings or structures located thereon.

"Property" means land and any buildings or structures located thereon.

D. "Recreational vehicle" means a camping trailer, travel trailer, motor home, truck camper, and any similar vehicular-type units primarily designed as temporary living quarters for recreational, camping or travel use, with or without motor power, being of such size and weight as to be operable over highways without requirement of a special highway movement permit.

"Recreational vehicle" means a camping trailer, travel trailer, motor home, truck

camper, and any similar vehicular-type units primarily designed as temporary living quarters for recreational, camping or travel use, with or without motor power, being of such size and weight as to be operable over highways without requirement of a special highway movement permit.

E. "Sporting vehicle" means a motor-or wind-powered device used in or on the water or off normal public roads for recreational or sporting purposes.

F. "Utility vehicle" means a utility vehicle includes those devices capable of being moved upon a public highway and in, upon, or by which any property or animal is or may be transported or drawn upon a public highway such as utility trailers, horse trailers, and other similar devices, except for devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(Ord. 161 Â§ 1, 1998; Ord. 39 Â§ 1 (part), 1996.)

17. That Section 8.24.100 of the Lakewood Municipal Code is amended to read as follows:

8.24.100 Storage of Certain Vehicles and Components Prohibited.

No person owning, leasing, renting, occupying, being in possession or having charge of any property in the City, including vacant lots, shall retain or store, except as may be permitted by any other City ordinance, any of the following:

A. One or more wrecked, dismantled or partially dismantled or apparently inoperative and unlicensed (vehicle licensing plates and current tabs) vehicles;

B. Body parts, engines or drive-train parts, or any other parts, assemblies or components of automobiles and other motor vehicles;

C. Any recreational vehicle, sporting vehicle or utility vehicle boat or trailer within the required front yard, or within the required five-foot side yard setbacks, unless parked and stored within the driveway or on a parking pad;

D. Any pickup truck campers or canopies (not mounted on a pickup truck), unless safely located within the driveway or on a parking pad in the front or side yard, but not within the required side yard setback.

(Ord. 161 Â§ 2, 1998; Ord. 39 Â§ 1 (part), 1996.)

18. That Title 18 of the Lakewood Municipal Code and Sections 1.36.080, 1.36.100, 1.36.170, 1.36.180, 1.36.190, 1.36.200 and 1.36.220 of the Lakewood Municipal Code are hereby repealed.

19. That if any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of the provision to other persons or circumstances shall not be affected.

20. That this Ordinance shall be in full force and effect on September 1, 2001, and at least five (5) days after publication of the Ordinance Summary, as required by law.

ADOPTED by the City Council this 20th day of August, 2001.

CITY OF LAKEWOOD

Bill Harrison, Mayor

Attest:

Alice M. Bush, CMC, City Clerk

Approved as to Form:

Daniel B. Heid, City Attorney

(NOTE: EXHIBIT "A" CAN BE FOUND UNDER THE CODIFIED VERSION TITLE
18A LAND USE AND DEVELOPMENT CODE.)

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