Department of Ecology

Grant No. G1000017

City of Gold Bar

Shoreline Master Program

Environment Designations, Policies & Regulations

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Chapter 1: Introduction

A. History and Requirements of the Shoreline Management Act

In 1972, the public adopted Washington's Shoreline Management Act (SMA) by referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The SMA has three broad policies:

1. *Encourage water-dependent uses:* "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines…"
2. *Protect shoreline natural resources*, including, "…the land and its vegetation and wildlife, and the water of the state and their aquatic life…"
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 people generally."

The SMA recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The SMA, and the City of Gold Bar (City), 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 SMA 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 SMA establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following four tasks:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the SMA.
2. Preparation of a "Master Program" to determine the future of the shorelines.
3. Development of a permit system to further the goals and policies of both the SMA and the local Master Program.
4. Development of a Restoration Plan that includes goals, policies, and actions for restoration of impaired shoreline ecological functions.

B. Master Program Development and Public Participation

The City obtained grant number G1000017 from the Washington Department of Ecology (Ecology) in 2009 to conduct a comprehensive Shoreline Master Program (SMP) update. The first step of the update process was to inventory the City's shorelines as defined by the state's SMA (Revised Code of Washington (RCW) Chapter 90.58). The Skykomish River, Wallace River, and May Creek and their associated wetlands comprise the SMA shorelines in the City. The shoreline of the Skykomish River is defined as a shoreline of statewide significance within the City (Washington Administrative Code (WAC) 173-18-350 Snohomish County). The inventory described 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.

Environmental designations were identified for the different shoreline reaches and goals, policies, and regulations for each were developed.

The Guidelines require that the City 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 four purposes of this SMP are to:

1. Carry out the responsibilities imposed on the City by the Washington State SMA (RCW Chapter 90.58).
2. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City.
3. Further, by adoption, the policies of RCW Chapter 90.58, and the goals of this SMP, both which hereafter follow.
4. Comply with the SMP Guidelines (WAC Chapter 173-26), including a particular focus on regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

D. Legislative Findings and Washington Shoreline Management Policies

The Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever-increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state.

The legislature further finds that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest. Therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.

E. Organization of this Shoreline Master Program

This SMP is divided into seven Chapters:

Chapter 1: *Introduction* provides general background information on the state 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 shoreline jurisdiction in the City and defines and maps the shoreline environment designations of all the shorelines of the state in the City. Policies and regulations specific to the five designated shoreline environments (High Intensity, Shoreline Residential, Urban Conservancy, Natural, and Aquatic) are detailed in this Chapter.

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

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. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Civic, Commercial Development, Forest Practices, In-Stream Structural Use, Industry and Manufacturing, Medical, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Utilities (Primary and Accessory).

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, variances, and conditional use permits,.

Chapter 7: *Definitions* defines terms found in this document.

F. Shoreline Master Program Basics

The City's SMP is a planning document that outlines goals and policies for the shoreline of the City and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of the City, it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's SMP, and that the City's Shoreline Administrator, as appointed by the Mayor, be consulted. Some developments may be exempt from regulation, while others may need a shoreline substantial development permit, or may require a variance or conditional use permit approval. All proposals must comply with the policies and regulations established by the state SMA as expressed through this local SMP adopted by the City, regardless of whether a permit is required.

The SMA defines for local jurisdictions the content and goals that should be represented in the SMPs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the Act, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline 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 under five shoreline environments: High Intensity, Shoreline Residential, Urban Conservancy, Natural, and Aquatic. These environments are described in Chapter 3: General Shoreline Provisions. A description and map of the area within the jurisdiction of this SMP are presented in Chapter 3: Shoreline Environments and in the Appendix as Figure 1.

Shoreline jurisdiction encompasses the full extent of the floodway and extends landward to include a minimum of 200 feet of floodplain contiguous to the floodway, and any associated wetlands. Under the SMA, local governments may adopt any jurisdiction boundary between the minimum floodway plus 200 feet of floodplain and the maximum of the full floodplain. The City has adopted the floodway plus 200 feet of floodplain as mapped by the effective Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

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

The City's Shoreline Administrator will determine if a proposal is exempt from a shoreline substantial development permit (i.e. qualifies for a shoreline exemption), as well as provide information on the permit application process.

Requests for shoreline substantial development permits, variances, and conditional use permits require review and recommendation by the City's Shoreline Administrator, with review and a final decision according to City procedures. Requests for shoreline conditional uses and variances also require final approval by Ecology. A description of exempt projects, shoreline application procedures, and criteria are discussed in Chapter 6: Administration.

G. Relationship of this Shoreline Master Program to Other Plans

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional, or federal statutes or regulations, which may also be applicable to such development or use. In the City, other plans and policy documents that must be considered include the City's Comprehensive Plan and the adopted Surface Water Design Manual.

Proposals must also comply with the regulations developed by the City to implement its plans, such as subdivision, zoning and critical areas ordinances, as well as regulations relating to building construction and safety.

At the time of a permit application or an initial inquiry, the City's Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the administrator's knowledge; provided, that the final responsibility for complying with such other statutes and regulations shall rest with the applicant.

H. Title

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

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Chapter 2: Environment Designation Provisions

A. Introduction to Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline. Shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and consistency with the City's Comprehensive Plan and zoning.

The City has adopted five designations:

1. **"High Intensity"** is appropriate for areas of high intensity water-oriented commercial, transportation, and industrial development.
2. **"Shoreline Residential"** is intended to accommodate residential development, and appropriate public access and recreational uses consistent with other elements of the SMP.
3. "**Urban Conservancy"** is a designation designed to protect and restore the ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed areas.
4. **"Natural"** is intended to protect shorelines that remain relatively free of human influence or that include intact or minimally degraded shoreline functions that cannot support human use.
5. **"Aquatic"** is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark (OHWM).

B. Need for Consistency

The SMA requires that policies for lands adjacent to the shorelines be consistent with the SMA 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 City's SMP was developed to be consistent with its adopted Comprehensive Plan and development regulations.

C. City of Gold Bar's Shoreline Environment Designations & Map

This SMP establishes five shoreline environments for the City. These environments are derived from the *Shoreline Analysis Report: Including Shoreline Inventory and Characterization for City of Gold Bar's Shorelines: Skykomish River, Wallace River, and May Creek*, the City's Comprehensive Plan, and the environments recommended by the SMA and the Shoreline Guidelines. The City's *Shoreline Analysis Report* provided 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 five (5) City shoreline environment designations in order of most intensive to least intensive are:

1. High Intensity,
2. Shoreline Residential,
3. Urban Conservancy,
4. Natural, and
5. Aquatic

These shoreline environments are illustrated for the City in Figure 15 located in Appendix 1, and described in the text below. Each shoreline environment description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards specific to that shoreline environment. Shoreline development standards are summarized in Table 2 in Chapter 4 and regulations that apply throughout the SMP (except where specifically provided) are included at the end of this Chapter.

D. Shoreline Areas Not Mapped or Designated

Any undesignated shorelines in the City are assigned automatically an Urban Conservancy shoreline environment designation. This includes any areas that are annexed into the City that fall within the City's shoreline jurisdiction. The SMP does not apply to annexed areas unless the City complies with the requirements of WAC 173-26-150 and -160.

E. Policies and Regulations

1. High Intensity Environment

a. Purpose

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

b. Designation Criteria

A High Intensity shoreline environment designation should be assigned to shoreline areas where one or both of the following characteristics apply:

1. They currently support high intensity uses related to commerce or transportation; or
2. They are suitable for high intensity water-oriented uses.

c. Designated Areas

Description

1. The High Intensity shoreline environment designation is assigned to those areas directly south of State Route 2 to the railroad tracks as well as an area extending approximately from Powell Lane to Smeltzer Road along the south bank of May Creek.

d. Management Policies

1. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. New non-water oriented uses are not prohibited if they do not conflict with or limit opportunities for water oriented uses or where there is no direct access to the shoreline
2. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed.
3. Assure no net loss of shoreline ecological functions occurs because of new development. Where applicable to comply with any relevant state and federal law, new developments should include environmental cleanup and restoration of the shoreline.
4. Visual and physical access should be required where feasible with physical access prioritized over visual access.
5. Aesthetic objectives should be implemented by means such as appropriate development siting, screening, and architectural standards, and maintenance of natural vegetative buffers.
6. Development should be located, sited, designed, and maintained to protect, enhance, and be compatible with the shoreline environment.
7. 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.

8. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be encouraged.
9. New development should be required to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, and existing development should be encouraged to do likewise. Incentives, information, and other assistance should be considered.

2. Shoreline Residential Environment

a. Purpose

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

b. Designation Criteria

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

c. Designated Areas

Description

The Shoreline Residential shoreline environment includes the following areas:

1. The south bank of the Wallace River from the western city limits to the first area of unincorporated Snohomish County;
2. Portions of May Creek, extending from the northwest city limits along the north and south banks to First Street, excluding a portion of the south bank designated as High Intensity shoreline environment designation;
3. The south bank of May Creek from First Street east until the Urban Conservancy shoreline environment designation just before the creek makes a tangent to the south;
4. The south bank of May Creek from the eastern City limits until the Urban Conservancy shoreline environment designation just before the creek makes a tangent to the south; and
5. A small area along the north bank of May Creek south of May Creek Place surrounded on three sides by the Urban Conservancy shoreline environment designation.
6. A small area along the north bank of May Creek on the southeast corner of First Street and May Creek Road abutted on two sides by the Urban Conservancy shoreline environment designation.

d. Management Policies

1. Residential activities are preferred over other land and resource consumptive development or uses.
2. Limited non-residential uses, such as parks and home occupation businesses may be allowed, provided they are consistent with the residential character.
3. Development should be located, sited, designed, and maintained to protect, enhance, and be compatible with the shoreline environment.
4. Ecological functions should be preserved by establishing development standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality to assure no net loss of shoreline ecological functions. These regulations should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
5. LID techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be encouraged.
6. New development should be required to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, and existing development should be encouraged to do likewise. Incentives, information, and other assistance should be considered.
7. Multi-family developments, residential developments containing four (4) or more lots and recreational developments should provide public access and joint use for community recreational facilities.
8. Access, utilities, and public services should be available and adequate to serve existing needs and and/or planned future development.
9. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.

3. Urban Conservancy Environment

a. Purpose

The purpose of the Urban Conservancy shoreline environment designation is to protect and restore ecological functions of open space and other sensitive lands where they exist in urban and developed settings, while allowing a variety of water-oriented uses and uses consistent with effective environmental management. The designation will provide for ecological protection and rehabilitation in relatively undeveloped shoreline areas anticipated for or containing existing forested area,

agricultural, recreation, and open space uses and limited development suitable to lands characterized by ecological and flood hazard constraints.

b. Designation Criteria

Include within the Urban Conservancy shoreline environment designation those shorelines and shoreland areas that most closely match the following characteristics:

1. They are suitable for water-related or water-enjoyment uses;
2. Areas containing extensive forested and recreational uses;
3. They are open space, flood plain, wetland or wetland buffer, stream buffer or other sensitive areas that should not be more intensively developed;
4. They have the potential for development that is compatible with ecological restoration;
5. Areas with existing non-water dependent shoreline development that will not be expanded;
6. They have potential for ecological restoration;
7. Areas that retain important ecological functions, even though partially developed; or
8. Newly annexed areas where there is no designation.

c. Designated Areas

Description

The Urban Conservancy shoreline environment designation is assigned to the shoreline areas along the north bank of May Creek from 1st Street East to the City boundary, and along the south bank of the Wallace River from the City's boundary with Snohomish County to the easternmost City boundary with the exception of the following areas:

1. A small area along the north bank of May Creek south of May Creek Place surrounded on three sides by the Urban Conservancy shoreline environment designation.
2. A small area along the north bank of May Creek on the southeast corner of First Street and May Creek Road abutted on two sides by the Urban Conservancy shoreline environment designation.

d. Management Policies

1. Uses that preserve the natural character of the area or promote preservation of forested areas, open space, floodplain, or critical areas 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 setting.

2. Standards should be established for vegetation conservation, water quality, and shoreline modifications within the 'Urban Conservancy' designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values.
3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
4. LID techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be encouraged.
5. New development should be required to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, and existing development should be encouraged to do likewise. Incentives, information, and other assistance should be considered.
6. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.
7. Water-oriented uses should be given priority over non-water oriented uses.
8. Non-water oriented uses should not be allowed except in the following cases:
    a) In limited situations where they do not conflict with or limit opportunities for water-oriented uses and non-mixed uses or on site where there is no direct access to the shoreline or the water body is not navigable; or
    b) Where the site is separated physically from the shoreline by another property or public right-of-way.

4. Natural Environment

a. Purpose

The Natural shoreline environment designation is assigned to protect those shoreline areas within the City that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use.

b. Designation Criteria

Include within the Natural environment those shorelines and shoreland areas that most closely match one of the following three characteristics:

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged 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

Description

The Natural shoreline environment designation is assigned to portions of the shoreline areas along the Skykomish River south of the existing railroad tracks as well as the east and west banks of the south fork of May Creek.

d. Management Policies

1. The following uses should be allowed in the Natural shoreline environment designation: low-intensity agriculture and in-stream structures as part of a fish habitat enhancement project. Water-oriented recreational development, commercial forestry, and single-family dwellings require a conditional use permit.
2. Low intensity public uses such as scientific, historical, cultural, and educational research uses should be allowed if ecological impacts are avoided.
3. Uses that adversely impact the ecological functions of 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 WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
4. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
5. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.

5. Aquatic Environment

a. Purpose

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

b. Designation Criteria

All lands waterward of the OHWM shall be assigned an Aquatic shoreline environment designation.

c. Designated Areas

Description

All lands waterward of the OHWM in the Skykomish River, Wallace River, and May Creek shall be assigned an Aquatic shoreline environment designation.

d. Management Policies

1. Aside from bridges for motorized or non-motorized uses, new over-water structures are allowed only for water-dependent uses, public access, or ecological restoration.
2. The size of new bridges for motorized or non-motorized uses 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 bridges for motorized or non-motorized uses should be encouraged.
4. Uses that adversely impact the ecological functions of 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 WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
5. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. The location and design of all developments and uses should minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
7. Assure no net loss of shoreline ecological functions because of new development. Where applicable, include environmental cleanup and restoration of the shoreline in new developments and comply with any relevant state and federal law.

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Chapter 3: General Shoreline Provisions

A. Introduction

Based on the general goals established for the SMP, the following policies and regulations apply to all uses, developments, and activities in the shoreline areas of the City. General policies and regulations are broken into ten different topic headings and arranged alphabetically. Each topic begins with a description of its applicability, followed by general policy statements and regulations that are more specific. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. The ten topics include the following:

1. Universally Applicable Policies and Regulations
2. Archaeological and Historic Resources
3. Critical Areas
4. Environmental Impacts
5. Flood Hazard Reduction
6. Public Access
7. Restoration
8. Shorelines of State-Wide Significance
9. Vegetation Conservation
10. Water Quality and Quantity

The regulations of this Chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more substantive protection to the shoreline area 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 governing principles of 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 the shoreline jurisdiction, including shoreline permits and letters of exemption.
2. The City's Shoreline Administrator should involve affected federal, state, and tribal governments in the review process of shoreline applications.
3. Planning policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations on the regulation of private property. Statutory limitations include those that are contained in RCW Chapter 82.02 and RCW 43.21C.060).
4. 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, identify and protect significant cultural resources, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to the following:
    a) Water quality;
    b) Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that support more desirable ecological and recreational conditions),
    c) Changing visual character as a result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas),
    d) Shoreline stabilization and modifications, and
    e) Significant cultural resources resulting from research, inventories, discoveries, or new information.

c. Regulations

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA, RCW Chapter 90.58, 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's Shoreline Administrator. The policies, taken together, 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 City's Shoreline Administrator, shall apply unless specifically stated.
4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or conditional use permit.

2. Archaeological and Historic Resources

a. Applicability

The following provisions apply to archaeological and historic resources, which may include sites, buildings, structures, districts, or objects, that either are recorded at the Washington State Department of Archaeology and Historic Preservation (DAHP) and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW Chapter 27.44 (Indian graves and records) and RCW Chapter 27.53 (Archaeological sites and records) and development or uses that may affect such sites shall comply with WAC Chapter 25-48 as well as the provisions of this Chapter.

b. Policies

1. Due to the limited and irreplaceable nature of archaeological and historic resources, the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the DAHP, should be prevented.
2. Ensure that new development is designed to avoid damaging significant archaeological and historic resources and enhance and/or be compatible with such resources.

c. Regulations

1. Local developers and property owners shall immediately stop work and notify the City, the DAHP 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 preserved permanently for scientific study, education, and public observation. When the City's Shoreline Administrator determines that a site has significant archeological, natural scientific or historical value, a shoreline 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 City's Shoreline Administrator may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential, potential for adaptive new uses or management practices, retrieval and preservation of significant artifacts, or another course of action appropriate for the location and circumstances.
4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City's Shoreline Administrator shall notify Ecology, the State Attorney General's Office, and the DAHP of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW Chapter 27.44 (Indian Graves and Records) and RCW Chapter 27.53 (Archaeological Sites and Records) and shall comply with WAC Chapter 25-48 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. Clear interpretation of significant archaeological and historic resources shall be provided when and where appropriate.

3. Critical Areas

a. Applicability

The Critical Areas Code (CAO), Ordinance No. 593 (2005) as codified under Chapter 18.08 of the Gold Bar Municipal Code (GBMC), regulates critical areas such as wetlands, critical aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and frequently flooded areas in the shoreline jurisdiction. The CAO, as amended, is herein incorporated into this SMP except as noted in the policies and regulations below.

b. Policies

1. If there is a conflict between the provisions of the CAO and other parts of the SMP, the provisions most protective of the shoreline jurisdiction shall apply, as determined by the City's Shoreline Administrator.
2. Provisions of the CAO that are not consistent with the SMA, RCW Chapter 90.85, and supporting WAC Chapters shall not apply in the shoreline jurisdiction, as follows:
    a) The provisions of the CAO do not extend the shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside the shoreline jurisdiction, see the City's CAO.
    b) Certain provisions of the CAO relating to Critical Areas do not apply within the shoreline jurisdiction, and certain CAO Sections are hereby excepted in this SMP and in the shoreline jurisdictions to which this SMP pertains. Excepted CAO Sections and appropriate replacement regulations are detailed in the following regulations Section for Critical Areas, and are based on Best Available Science (BAS) conclusions regarding effective management of critical and sensitive areas.
    c) Shoreline variance procedures and criteria have been established in this SMP, Chapter 6, Section I, and in WAC 173-27-170(4).
3. Provisions of the CAO that create exemptions not authorized by the SMA shall not apply in the shoreline jurisdiction.
4. Reasonable use provisions of the City's CAO (Section 4.13 Critical areas reasonable use permit) shall not apply within the shoreline jurisdiction under this SMP.

c. Regulations

1. Wetlands
    a) Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.
    b) The CAO Chapter 5.1(B) wetlands rating system is amended in this SMP as follows. Wetland ratings in the shoreline jurisdiction shall be conducted per the 2004 Ecology Washington State Wetland Rating System for Western Washington, Publication #04-06-25, or as revised by Ecology in the future.
    c) The CAO Chapter 5.2(B) regarding water dependent uses allowed in Category II and III wetlands is excepted from this SMP.
    d) The CAO Chapter 5.2(D)(1) regarding standard buffer widths is amended in this SMP, as follows. Properly protective wetland buffers within the shoreline

jurisdiction areas will follow Ecology's BAS guidelines, per Appendix A of the Wetlands Guidance for Small Cities Western Washington Version:

1) Buffer Requirements. The standard buffer widths in Table 1 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for western Washington.

2) The use of the standard buffer widths requires the implementation of the measures in Table 2, where applicable, to minimize the impacts of the adjacent land uses.

3) If an applicant chooses not to apply the mitigation measures in Table 2, then a 33% increase in the width of all buffers is required. For example, a seventy-five (75) foot buffer with the mitigation measures would be a one hundred (100) foot buffer without them.

4) The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community, or the buffer should be widened to ensure that adequate functions of the buffer are provided.

5) Additional buffer widths are added to the standard buffer widths depending on habitat function scores in the wetland rating. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of two hundred and twenty-five (225 feet) (75 feet + 150 feet).

Table 1 - Wetland Buffer Requirements

Category of Wetland	Standard Buffer Width	Additional buffer width if wetland scores 21-25 habitat points	Additional buffer width if wetland scores 26-29 habitat points	Additional buffer width if wetland scores 30-36 habitat points
Category I: Based on total score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category I: Bogs	190 feet	NA	NA	Add 35 feet
Category I: Natural Heritage Wetlands	190 feet	N/A	NA	Add 35 feet
Category I:	75 feet	Add 30 feet	Add 90 feet	Add 150 feet

Category of Wetland	Standard Buffer Width	Additional buffer width if wetland scores 21-25 habitat points	Additional buffer width if wetland scores 26-29 habitat points	Additional buffer width if wetland scores 30-36 habitat points
Forested				
Category II: Based on score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category III All	60 feet	Add 45 feet	Add 105 feet	NA
Category IV All	40 feet	NA	NA	NA

Table 2 - Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10′ heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust
Disruption of corridors or connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

e) The CAO Chapter 5.2(D)(4)(d) regarding wetland buffer width averaging is amended in this SMP, as follows. Wetland buffer reduction may not exceed 25% within shoreline jurisdiction areas (see Chapter 4, Table 1).

f) The CAO Chapter 5.2(D)(5) regarding reduction of buffer widths is excepted from this SMP. Within shoreline jurisdiction areas, buffer widths may only be reduced to a maximum of 25% and only if the following avoidance, minimization, and mitigation sequencing has been followed:

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; and

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

g) The CAO Chapter 5.3(D)(1) and 5.3(E) regarding wetland acreage replacement and wetland enhancement for mitigation are excepted from this SMP. Within shoreline jurisdiction areas, wetland mitigation ratios for wetlands found within Gold Bar will follow Ecology's BAS guidelines, per Appendix A of the Wetlands Guidance for Small Cities Western Washington Version:

Table 3 - Wetland Mitigation Ratios

Category of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement	Preservation
Category I: Based on Functions	4:1	8:1	16:1	20:1
Category I: Bog, Natural Heritage Site	Not considered possible	Case by case	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1	Case by case
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

Wetland compensatory mitigation categories are defined as follows, per U.S. Army Corps of Engineers *Regulatory Guidance Letter 02-02* and adopted by Ecology:

- Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into the following:

  1) Re-establishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

  2) Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

- Creation (Establishment): The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site where wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

- Enhancement: The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

- Protection/Maintenance (Preservation): Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly

associated with the term preservation. Preservation does not result in a gain of wetland acres, it may result in a gain in functions, and it will be used only in exceptional circumstances.

2. Fish and Wildlife Conservation Areas

   a) The CAO Chapter 8.4(C)(3) regarding riparian habitat area width averaging is amended in this SMP, as follows. Riparian habitat area reduction may not exceed 25% or result in less than a one hundred (100) foot width in any location within the shoreline jurisdiction. Riparian habitat widths of 100 feet or greater are generally accepted per best available science as being protective of most riparian ecological functions.

4. Environmental Impacts

a. Applicability

The SMA is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. Problems of degrading the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are all issues that are addressed.

b. Policies

1. Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdiction, buffering, and incentives to encourage ecologically sound design.
2. Preserve the scenic aesthetic quality of shoreline areas to the greatest extent feasible.
3. Minimize and/or avoid adverse impacts on the natural environment during all phases of development (e.g., design, construction, operation, and management).

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. Adequate setbacks and natural buffers from the water should be provided, in addition to ample open space among buildings and structures to protect natural features, preserve views, and minimize use conflicts. Critical area buffers as described in the best available science (BAS) shall be required.

3. All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.).
4. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
    a) Avoiding the impact altogether by not taking a certain action or parts of an action;
    b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
    c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
    d) Reducing or eliminating the impact over time by preservation and maintenance operations;
    e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
    f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.
5. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.
6. 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.
7. All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface run-off and to control, treat, and release surface water run-off 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 to continue to function as intended. BMPs are identified in the City's adopted stormwater manual.
8. All shoreline developments shall be located, constructed, and operated so as not to be a hazard to public health and safety.
9. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. When required by the Public Works Director, surface drainage systems or substantial

earth modifications shall be designed by a civil engineer registered to practice in the State of Washington. The Public Works Director may also require additional studies prepared by a qualified soils specialist. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.

10. Identified significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate mitigation that is likely to achieve no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.

5. Flood Hazard Reduction

a. Applicability

The following provisions apply to actions taken to reduce flood damage or hazard to uses, development, and shoreline modifications that could increase flood hazards. Flood hazard reduction measures can consist of non-structural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs; and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

b. Policies

1. Where feasible, give preference to non-structural flood hazard reduction measures over structural measures.
2. Flood hazard reduction provisions should be based on or derived from applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the SMA and this Chapter.
3. Assure that flood hazard reduction measures do not result in a net loss of ecological functions associated with the Skykomish River, Wallace River, or May Creek and associated wetlands.
4. Plan for and encourage that the Skykomish River, Wallace River, and May Creek and associated wetlands return to a more natural hydrological conditions.
5. When evaluating flood control measures, the removal or relocation of buildings or structures in flood-prone areas should be considered.
6. Channel migration zones (CMZ) are areas where natural river processes can cause the river channel to migrate laterally over time. Within the CMZ, the following policies pertain:
    a) Limit development and shoreline modifications that would result in interference with the process of channel migration;

b) Limit development and shoreline modifications that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.

c. Regulations

1. The City shall maintain, enhance, and restore public natural drainage systems to protect water quality, reduce sediment, reduce public costs, and prevent associated environmental degradation for a no net loss of shoreline ecological functions.
2. Structural flood hazard reduction measures shall be consistent with the Section 9 – Frequently Flooded Areas of the CAO.
3. Allow new structural flood hazard reduction measures in the shoreline jurisdiction only when:
   a) It can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development;
   b) That non-structural measures are not feasible;
   c) That impacts to ecological functions and priority species and habitats can be successful mitigated so as to assure no net loss; and
   d) That appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
4. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system.
5. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation areas, except for actions that increase ecological functions, such as wetland restoration. Such flood hazard reduction projects will only be authorized if it is determined that no other alternative is feasible. The need for, and analysis of feasible alternatives to structural improvements shall be documented through a geotechnical analysis.
6. Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access unless public access improvements would cause:
   a) Unavoidable health or safety hazards to the public;
   b) Inherent and unavoidable security problems;
   c) Unacceptable and immitigable significant ecological impacts:
   d) Unavoidable conflict with the proposed use; or

e) A cost that is disproportionate and unreasonable to the total long-term cost of the development.

7. Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this Chapter and allowed only after a biological and geomorphologic 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.
8. The CMZ should be established to identify those areas with a high probability of being subject to channel movement based on the historic record, geologic and geomorphic character, and evidence of past migration. Consideration should be given to changes that may have occurred and their effect on future channel migration patterns.
9. Require that projects proposed in the floodplain must assure no potential impacts to the CMZ as mapped by Snohomish County. Structures should be located to avoid the need for future protection due to potential channel migration.
10. The following standards should be implemented within shoreline jurisdiction:

    a) Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to RCW Chapter 86.12, provided the plan was been adopted after 1994, and approved by Ecology.

    b) New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the CMZ or floodway. The following uses and activities may be appropriate and/or necessary within the CMZ or floodway:

        1) Actions that protect or restore the ecosystem-wide processes or ecological functions.

        2) Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.

        3) 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 section of watershed or drift cell.

        4) Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

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

6) Development in the City where existing structures prevent active channel movement and flooding.

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

6. Public Access

a. Applicability

Public access includes the ability of the 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 are a variety of types of potential public access, including picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, parking and others. Physical access to the shoreline is preferred over visual access.

May Creek

The Creekside Vista subdivision is located in the eastern portion of the City. Two tracts in the subdivision have been conveyed to the Homeowner's Association (HOA) for ongoing maintenance. Both tracts, immediately adjacent to May Creek have been set aside as native growth protection areas (NGPA), and are designated to remain in a natural state in perpetuity. There is no clearing, grading, filling, building construction or placement, or road construction of any type allowed on these tracts. These tracts provide visual access to the shoreline.

May Creek Park Plat is another subdivision in the City developed alongside May Creek which has a 4,500 square foot undeveloped park tract adjacent to the shoreline. A fifteen (15) foot public access easement was granted to the City from the right-of-way on Evergreen Way to access the park and water's edge. The City's Comprehensive Plan – Parks, Trails and Recreation Appendix notes that the park could be developed as a trailhead. The City's Pedestrian and Bicycle Plan identifies a proposed soft surface trail running through the park connecting to the path that runs adjacent to May Creek.

Wallace River

Wallace River Estates is a subdivision, located off May Creek Road and adjacent to Wallace River in the northern portion of the City. There is a designated NGPA

associated with the plat immediately adjacent to Wallace River. A fifteen (15) foot public ingress/egress easement was granted from the new plat road through to the NGPA along the Wallace River to provide public access.

Salmon Run Park off 399th Avenue SE is an undeveloped park totaling approximately 1.3 acres on the south bank of Wallace River. The property was dedicated to the City for use as a park as part of the Olson Short subdivision.

Skykomish River

Publicly owned land does not border the Skykomish River, currently preventing public access to the river from within the City.

Standards for the dedication and improvement of public access, as noted in the SMP guidelines found in WAC 173-26-221(4)(d)(iii), is discussed in this Section.

b. Policies

1. Provide and enhance shoreline access to Skykomish River, Wallace River, and May Creek through purchase or retention of access easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing. Physical access to the shoreline is preferred over visual access.
2. Shoreline areas that hold unique value for public enjoyment should be identified and retained. Purchases should be made or easements should be acquired for public use. Prioritize sites in terms of short- and long-term acquisition and development.
3. The level of public access should be commensurate with the degree of uniqueness or fragility of the shoreline.
4. Street crossings of the Skykomish River, Wallace River, and May Creek and public street ends terminating at the rivers and creek should be considered for development of public access facilities.
5. Ensure the development of upland areas such as parking facilities and play areas are located and designed in ways that result in no net loss of ecological function.
6. Access should be provided for a range of users including pedestrians, bicyclists, and people with disabilities to the greatest extent feasible.
7. Public access provisions should be required for all shoreline development and uses, except for a single-family residence or residential projects containing four (4) or less dwelling units unless such development is part of an identified trail plan.
8. Regulate the design, construction, and operation of permitted uses in the shoreline jurisdiction to minimize, insofar as practical, interference with the public's use of the water.

9. Improve access to all shoreline areas through expanded non-motorized connections.
10. Integrate shoreline public access trails with other existing and planned regional trails where feasible to provide non-motorized access and community connections.
11. Ensure existing and proposed public access and recreational uses do 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.
12. 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. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.
13. Public access to shoreline areas does not include the right to enter upon or cross private property, except for dedicated easements.
14. Physical access for passive recreation (such as interpretive trails) and habitat enhancement should be important objectives for the management of shoreline public access sites.
15. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and they should be designed to be accessible by handicapped and physically impaired persons; auxiliary facilities should be located outside of the shoreline management area where feasible or near the outer edge of the shoreline management area if possible.
16. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
17. 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.
18. Public access facilities should be constructed of environmentally friendly materials, use LID techniques, and support healthy natural processes, when feasible.
19. Regulations should provide detailed guidance for the construction of trails in particularly environmentally sensitive shoreline segments along the Skykomish River, Wallace River, and May Creek.
20. Public access planning should include a plan for an integrated shoreline public access system that identifies specific public needs and opportunities to provide public access. This planning should be integrated with other relevant

Comprehensive Plan elements, especially transportation and parks/recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

21. At a minimum, public access planning should result in public access requirements for shoreline permits, recommended projects, and/or actions to be taken to develop access to shorelines on public property. The City's Shoreline Administrator should identify a variety of shoreline circulation and access opportunities for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other Comprehensive Plan elements.

c. Regulations

1. Public access shall be required for all shoreline development and uses, except for a single-family residence or residential projects containing four (4) or less dwelling units unless such development is part of an identified trail plan.
2. Public access requirements shall be applied as follows:
    a) A shoreline development or use that does not provide public access may be authorized provided the applicant demonstrates and the City's Shoreline Administrator determines that one or more of the following provisions apply.
        1) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
        2) Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
        3) The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development.
        4) Unacceptable environmental harm will result from the public access which cannot be mitigated; or
        5) Significant undue and unavoidable conflict between the proposed access and adjacent uses will occur and it cannot be mitigated.
    b) Provided further, that the applicant has first demonstrated and the City's Shoreline Administrator has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
        1) Regulating access by such means as limiting hours of use to daylight hours;
        2) Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping;

3) Providing access that is physically separated from the proposal, such as a nearby street end, an off-site viewpoint, or a trail system; or

4) Where the above conditions cannot be met, a payment in lieu of providing public access shall be required in accordance with RCW 82.02.020.

3. 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.

4. Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.

5. Public access sites shall be made barrier free for the physically disabled where feasible.

6. 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.

7. 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 Snohomish County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval).

8. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.

9. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

10. Physical public access shall be designed to prevent significant impacts to sensitive natural systems.

11. The City's Shoreline Administrator shall require the use of environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., when developing public access to the shoreline.

12. Where public access is to be provided by a trail, the following requirements shall apply:

    a) The trail shall be no greater than ten (10) feet in total improved width, which may include one (1) foot gravel shoulders. Not including landscaping, no more than eight (8) feet of improved surface is preferable in most cases;

b) Pervious pavement should be used for public access within the shoreline management area unless the City's Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic, or functionality concerns;

c) Where feasible, the trail shall be placed at least fifty (50) feet from the OHWM;

d) Landscaping should be native and drought tolerant or site appropriate; and

e) Other specific conditions described in a trail or parks plan.

13. Whenever financially feasible and practical, the City's Shoreline Administrator 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. Porous pavements shall be used unless the applicant demonstrates to the satisfaction of the City's Shoreline Administrator that such materials would restrict accessibility, pose a safety hazard, or are not sufficiently durable.

14. Public entities shall incorporate public access measures as part of each development project, unless access is incompatible with safety, security, or environmental protection.

7. Restoration

a. Applicability

Restoration refers to the reestablishment or upgrading or impaired ecological shoreline processes or functions. The following goals and policies are intended to guide actions that are designed to achieve improvements in shoreline ecological functions over time in shoreline areas where such functions have been degraded. The overarching purpose is to achieve overall improvements over time when compared to the ecological conditions upon adoption of the SMP, as detailed in the City's *Shoreline Analysis Report*. 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 not be implemented through regulatory means.

b. Policies

1. Reclaim and restore biologically and aesthetically degraded areas, to the greatest extent feasible while maintaining appropriate use of the shoreline.

2. Increase quality, width, and diversity of native vegetation in protected corridors adjacent to riparian habitats 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. Continue to work collaboratively with other jurisdictions and stakeholders to implement the WRIA 7 Plan.
4. Seek funding where possible for various restoration actions and programs from local sources and by working with other WRIA 7 jurisdictions and stakeholders to seek federal, state, grant and other funding opportunities.
5. Develop a public education plan 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 vegetation removal, pesticide/herbicide use, car washing) on fish and wildlife habitats.
6. Where feasible, protect, enhance, and encourage the restoration of riparian areas and wetlands throughout the contributing basin where functions have been lost or compromised.
7. When appropriate, the City will follow the Application for Relief option from expansion of SMA jurisdiction by shoreline restoration projects set forth in RCW 90.58.580.

c. Regulations

1. The City shall prepare a Restoration Plan as part of the SMP update process. The plan shall guide the City's effort to achieve overall improvements over time when compared to the existing conditions upon the original adoption of the SMP update.

8. Shorelines of State-Wide Significance

a. Applicability

The SMA of 1971 designated certain shoreline areas as shorelines of statewide significance. The Skykomish River 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 that favor long-range goals and support the overall public interest.

b. Policies

In implementing the objectives for shorelines of statewide significance (RCW 90.58.020), the City will base decisions in preparing and administering this SMP on the following policies in order of priority, 1 being the highest and 7 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 environments and use regulations to protect and restore the shoreline ecology and character; and
    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; and
    b) Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
5. Achieve no net loss of shoreline ecological functions.
    a) All development and redevelopment activities within the City's shoreline jurisdiction should be designed to achieve no net loss of shoreline ecological functions.
6. Increase public access to publicly owned areas of the shorelines.
    a) Implement a comprehensive way-finding signage program that directs the public to publicly owned shoreline areas.
    b) Increase recreational opportunities for the public in the shoreline.

9. Vegetation Conservation

a. Applicability

Vegetation within and adjacent to water bodies provides a valuable function for the health of riparian ecosystems. Vegetation conservation includes activities to protect and restore native riparian vegetation along or near freshwater shorelines that contribute to the ecological functions of shoreline areas.

b. Policies

1. Where new developments and/or uses or redevelopments are proposed, native riparian shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Native riparian vegetation conservation

and restoration should be used to mitigate the direct, indirect, and/or cumulative impacts of shoreline development, wherever feasible.

2. Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.
3. All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.
4. Provide incentives for the retention and planting of native vegetation, discourage extensive lawns due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.
5. The City should explore opportunities for weed management to eliminate non-native vegetation invasives and encourage the planting and enhancement of native vegetation at the Skykomish River, Wallace River, and May Creek.
6. In order to increase habitat and address other ecological functions within the shoreline environment such as temperature regulation and bank stabilization, encourage homeowners and property managers to leave fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.
7. 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.
8. 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 the Skykomish River, Wallace River, and May Creek;
    b) Limit the amount of lawn and garden watering so that there is no surface run-off; and
    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.
9. Riparian vegetation management should involve usage of native plant materials wherever possible in soil bioengineering applications and habitat restoration activities. Where active removal or destruction of riparian vegetation is necessary, it should be done only where native plant communities and associated habitats are threatened or to the extent necessary to allow water-dependent activities to continue. Removal or modification of riparian vegetation should be conducted in a manner that minimizes adverse impacts to native plant

communities, and should include appropriate handling or disposal of any weed materials and attached sediments.

c. Regulations

1. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below:

    a) Removal of noxious weeds as listed by the state in WAC Chapter 16-750, provided such activity must be conducted in a manner consistent with BMPs and the City's engineering and stormwater design standards. Native vegetation shall be promptly reestablished in the disturbed area; or

    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.

2. All clearing and grading activities must adhere to the requirements of the City's code pertaining to land, clearing and grading and all additional requirements provided in the SMP. 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. Prior to issuance of any construction, grading, or building permits, the permittee shall post with the City a cash operating bond, and a cash surety reclamation bond in amounts approved by the City's Shoreline Administrator. This amount shall equal one hundred fifty percent (150%) of the estimated cost of the project as reviewed and approved by the Public Works Director, or no less than two thousand dollars. This regulation would also apply to any site mitigation requirements.

4. Prior to final issuance of a building permit, land use permit or occupancy, a maintenance bond or other acceptable financial guarantee equal to thirty percent (30%) of the replacement cost of the landscaping shall be submitted. The bond or other suitable financial guarantee shall be maintained for a three (3) year period, at which point the City's Shoreline Administrator and Public Works Director, or designee, will determine if the bond shall be released or extended to maintain landscaped areas. This regulation would also apply to any site mitigation requirements.

5. 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.

6. Any normal and routine maintenance of existing trees shall not be subject to these clearing and grading regulations, if said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees.
7. Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation or raising of dry upland shall be considered fill and shall comply with the requirements of the City.
8. Within all shoreline areas, tree removal shall be limited to the minimum necessary to accommodate proposed buildings, structures, and uses or to mitigate a hazard to life or property. Tree cutting plans shall be prepared for both subdivisions and short subdivision according to GBMC 16.12.080 as adopted or amended or the applicant may submit a tree replacement plan prepared by a qualified professional that demonstrates how no net loss will be achieved.
9. The City's Shoreline Administrator shall require a report prepared by a qualified professional as determined by the Public Works Director or designee as part of any shoreline substantial development permit that includes tree removal and land clearing. The report shall identify appropriate mitigation, performance assurances, maintenance, and monitoring requirements necessary to assure no net loss of ecological function necessary to sustain shoreline processes.
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 non-invasive plant materials, similar to that which most recently occurred on-site, may be used.
11. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City's Shoreline Administrator 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.
12. Stabilization of exposed erosion-prone surfaces within the shoreline environment shall utilize soil-bioengineering techniques wherever feasible.
13. Aquatic vegetation control shall only occur where native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements.
14. The application of herbicides or pesticides in the Skykomish River, Wallace River, and May Creek, wetlands, or ditches requires a permit from 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.

10. Water Quality and Quantity

a. Applicability

Water quality is affected in numerous ways by human occupation and development of shoreline areas. Typically, the increase in impermeable surfaces as a result of development increases stormwater run-off volumes, causing higher stormwater discharges at higher velocities that cause scouring and erosion of stream banks. The degradation of water quality adversely affects wildlife habitat and public health.

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 the Skykomish River, Wallace River, and May Creek.
3. Stormwater impacts should be addressed through the application of the most recent edition of the City's 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 encouraging the use of pervious pavements and other LID technologies.
5. The City should work with the Snohomish Health District 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.
6. The City should continue to provide general information to the public about the use of land and human activities that affect water quality. This could be accomplished 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.
7. The City should encourage homeowners and property managers to use non-chemical weed and pest control solutions and natural fertilizers.

c. Regulations

1. All shoreline development, both during and after construction, shall minimize impacts related to surface run-off through control, treatment, and release of surface water run-off such that there is no net loss of receiving water quality in the shoreline environment. Control measures include but are not limited to dikes, run-off-intercepting ditches, catch basins, settling wet ponds,

sedimentation ponds, oil/water separators, filtration systems, grassy swales, planted buffers, and fugitive dust controls.

2. Shoreline development and uses shall adhere to all required setbacks, buffers, and standards for stormwater storage basins.
3. All shoreline development shall comply with the applicable requirements of the City's CAO, the requirements of this SMP, the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.

Chapter 4: Shoreline Use Provisions

A. Introduction

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, Civic, Commercial Development, Forest Practices, In-Stream Structural Use, Industry and Manufacturing, Medical, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Utilities (Primary and Accessory). The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies, and intent of the SMA and this SMP.

B. Basic Shoreline Use and Development Standards

Table 4 - Permitted, Conditional, and Prohibited Uses

KEY
P = Permitted Use
C = Conditional Use
X = Prohibited

Shoreline Uses (1)	**High Intensity**	**Shoreline Residential**	**Urban Conservancy**	**Natural (4)**	**Aquatic**
Agriculture	P	C	P	X	X
Aquaculture	X	X	X	X	C
Boating Facilities	X	X	X	X	X
Civic	P	C	X	X	X
Commercial Development	P	X	X	X	X
Forest Practices (2)	X	X	X	C (6)	X

Shoreline Uses (1)	High Intensity	Shoreline Residential	Urban Conservancy	Natural (4)	Aquatic
In-Stream Structural Uses					
As Part of a Fish Habitat Enhancement Project	X	X	X	X	P
Other	X	X	X	X	X
Industry and Manufacturing	P	X	X	X	X
Medical	P	P	X	X	X
Mining	X	X	X	X	X
Parking –Accessory (3)	P	P	C	C	X
Recreational Development					
Water-Oriented	P	P	P	C	X
Non-Water Oriented (7)	P	P	C	X	X
Residential Development	P	P	C	C (5)	X
Transportation Facilities					
New Roads related to Permitted Shoreline Activities	C	C	C	X	X
Bridges for Motorized and Non-motorized Uses	C	C	C	X	C
Expansions of Existing Circulation Systems outside of New Roads related to Permitted Shoreline Activities	P	P	X	X	X
Utilities (Primary)	P	C	C	C	C
Utilities (Accessory)	P	C	C	C	X

Notes:

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed. In addition, development shall be subject to the allowed uses established by the underlying zoning. In the event of a conflict between the SMP and the GBMC, the GBMC shall govern whether a use is allowed or not.
2. The removal of trees in shorelines of statewide significance shall be limited. Exceptions to this standard shall require a shoreline conditional use permit.
3. Primary use parking lots or garages are prohibited in all shoreline environments.
4. In the Natural Environment, development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions is prohibited. As is subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts ecological functions.

5. Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
6. Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and it is conducted in a manner consistent with the purpose of this environment designation.
7. This includes low intensity public uses such as scientific, historical, cultural, educational research uses, and water-oriented recreational access if ecological impacts are avoided.

Table 5 - Basic Development Standards

Shoreline Standards	High Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Maximum Height (1)	35 feet	35 feet	35 feet	35 feet	N/A
Shoreline Setback (from Floodway or Ordinary High Water Mark) (2)(3)(4)	150 feet. (May be reduced by 25% with buffer averaging.)	150 feet. (May be reduced by 25% with buffer averaging.)	150 feet. (May be reduced by 25% with buffer averaging.)	150 feet. (May be reduced by 25% with buffer averaging.)	N/A
Maximum Impervious Surface Coverage in the Shoreline Jurisdiction (5)	50%	35%	30%	N/A	N/A
Minimum Lot Width in the Shoreline Jurisdiction (6)	N/A	75 Feet	75 Feet	N/A	N/A

Notes:

1. Development shall also be subject to the height limits established by the underlying zoning. In no case shall the height exceed thirty-five (35) feet or fifty (50) feet for appurtenances. A height of more than 35 feet can only be achieved if the applicant prepares a view corridor study indicating that the proposed structure would not diminish views of a substantial number of surrounding properties. Height is defined in WAC 173-27-030(9) as "measured from average grade level to the highest point of a structure: provided that television

antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation."

2. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. 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 GBMC, the requirement that provides the most protection to the shoreline management area shall be applied.
3. Developments associated with an ecological restoration or interpretation, water-dependent 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 buildings, structures, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. These developments must demonstrate "no net loss" of ecological functions prior to being approved within the setbacks. In no case shall parking be allowed within the minimum setback.
4. Major structures cannot be built in the shoreline setback, but low impact uses such as trails, lawns, small patios, decks, gardens, or sheds are allowed within the shoreline setback in areas cleared before this SMP was adopted. Total impervious surfaces may not cover more than 20 percent of the total setback area. Within the setback area, one storage shed with a maximum area of 150 square feet and up to 12 feet in height may be allowed as an accessory to a single-family residence.
5. Development shall also be subject to the maximum impervious surface coverage limits established by the underlying zoning. In no case shall it be more than 50%.
6. Development shall also be subject to the minimum lot width limits established by the underlying zoning.

C. Shoreline Use Policies and Regulations

1. General Use Policies

a. Applicability

The provisions in this Section apply to all uses and development types permitted within the shoreline jurisdiction.

b. Policies

1. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, apply the following preferences and priorities in the order 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 compatible with ecological protection and restoration objectives;

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

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 economic use of the shoreline 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 as they affect the shoreline.
3. The limited development potential of the shorelines of the state in the City should be consistent with the projected demand for economic resources of statewide importance and public access and recreation requirements should be based on demand projections.
4. New residential development should be designed to protect existing shoreline water views, promote public safety, and avoid adverse impacts to shoreline habitats.
5. 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.
6. Encourage the use of LID and "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
7. Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
8. Encourage shoreline uses that enhance their specific areas or employ innovative features for purposes consistent with this SMP.
9. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function because of past activities or catastrophic events.

c. Regulations

1. Shoreline uses are allowed only if the underlying zoning allows the use.
2. Boating Facilities and Mining uses are prohibited in the City's shoreline jurisdiction.

2. Agriculture

a. Applicability

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through RCW 84.33.140; or livestock, that has long-term commercial significance as well as the other definitions of agricultural use found in WAC 173-26-020(3). In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in WAC 173-26-020. This SMP applies only to new agricultural activities, and shall not require modification of or limit existing and ongoing agricultural activities in the shoreline jurisdiction, consistent with WAC 17-26-241.

b. Policies

1. Agriculture should be permitted as a low intensity permitted or conditional use only in the High Intensity, Shoreline Residential, Urban Conservancy, and Natural Environments.
2. The creation of new agricultural lands by diking, draining, or filling marshes, and associated marshes, bogs, and swamps, or by removing native vegetation should be prohibited.
3. All new agricultural activities should be set back from the shoreline according to the setbacks established for the shoreline environment in which the activity is occurring.
4. Appropriate management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application. The use of chemical pesticides and fertilizers should be discouraged.
5. All new agricultural development should be conditioned to be located and designed to assure no net loss of ecological functions and to not to have a significant adverse impact on other shoreline resources and values.

c. Regulations

1. All new agricultural 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. All new agricultural activities shall occur outside of the established shoreline setback area.
3. The removal of native vegetation to accommodate new agricultural activities is prohibited.
4. A buffer of natural or planted permanent native vegetation as determined by the BAS (King County, 2004—Volume II, Appendix A), not less than twenty (20) feet in width, measured perpendicular to the shoreline, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the buffer based on the requirements of BAS and site-specific criteria for establishing efficacy of the vegetated buffer (slope, rainfall, surface uniformity, etc.) when the applicant applies for a permit or letter of exemption.
5. Water withdrawals from SMP water bodies for irrigation purposes shall be subject to Ecology rules and regulations.
6. Manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the shoreline jurisdiction.
7. Any water discharge from agricultural activities into SMP water bodies is prohibited.
8. A shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).
9. Conversion of agricultural land to non-agricultural uses shall be consistent with the shoreline environment designation, and regulations applicable to the proposed use shall not result in a net loss of ecological functions.

3. Aquaculture

a. Applicability

Aquaculture is the farming or culturing of food fish or other aquatic plants and animals in lakes, streams, and other natural or artificial water bodies. There are no existing aquaculture activities within the City's shoreline jurisdiction.

b. Policies

1. Aquaculture is dependent on the use of the water area and is a preferred use of the water area, when consistent with control of pollution and prevention of damage to the environment.
2. Future aquaculture uses are not anticipated within the City's shoreline jurisdiction and potential locations for aquaculture are restricted. However, the technology associated with some forms of present-day aquaculture is still in its formative stages and experimental, and the City recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

c. Regulations

1. Aquaculture uses are prohibited in all shoreline environment designations, except within the Aquatic Environment, where it is a conditional use.
2. General ecological siting considerations:
    a) Local ecological conditions shall be considered in developing limits and conditions to assure appropriate types of aquaculture are compatible for local conditions and assure no net loss of ecological functions.
    b) Aquaculture is not permitted in areas where it would result in a net loss of ecological functions or adversely impact eelgrass and/or macroalgae. Impacts to ecological functions shall be mitigated consistent with the mitigation sequence. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new nonnative species, which cause significant ecological impacts.
3. Aquaculture is not permitted in areas where it would significantly conflict with navigation and other water-dependent uses.
4. Aquacultural facilities should not significantly affect the aesthetic qualities of the shoreline.
5. Upland uses shall be properly managed to avoid degradation of water quality in existing shellfish areas.

4. Boating Facilities

a. Applicability

These activities are not applicable to the City. There are no known boating facility activities existing or anticipated within the shoreline jurisdiction.

b. Policies

1. Prohibit boating facilities within all shoreline environment designations.

c. Regulations

1. Boating facilities are prohibited in all shoreline environment designations.

5. Civic

a. Applicability

The provisions in this Section apply to all civic uses and development types permitted within the shoreline jurisdiction. Civic uses and development include public facilities such as schools, libraries, churches, civic centers, police, fire, and other public safety structures.

b. Policies

1. Civic uses should be permitted as a permitted or conditional use only in the High Intensity and Shoreline Residential Environments.
2. Preference should first be given to water-dependent civic uses over non-water-dependent civic uses and second, preference should be given to water-related and water enjoyment civic uses over non-water-oriented civic uses.
3. Civic uses on sites that are physically separated from the shoreline by another property or public right of way should be allowed on lands zoned for that purpose under GBMC Title 17, where there are limited developed areas of non-water-oriented civic uses without direct access to the shoreline.
4. Civic uses may be authorized as water related or water enjoyment if they incorporate required and appropriate design and operational elements.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent civic development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water oriented civic uses on the shoreline are prohibited unless they meet the following criteria:
    a) 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; or
    b) Navigability is severely limited at the proposed site; and the civic use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
    c) If the site is physically separated from the shoreline by another property or public right of way.

3. Non-water-dependent civic uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
4. Civic development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020, such as navigation, recreation, and public access.

6. Commercial Development

a. Applicability

The provisions in this Section apply to all commercial uses and development types permitted within the shoreline jurisdiction.

b. Policies

1. Commercial development should be permitted as a permitted or conditional use only in the High Intensity Environment.
2. Preference should first be given to water-dependent commercial uses over non-water-dependent commercial uses and second, give preference to water-related and water enjoyment commercial uses over non-water-oriented commercial uses.
3. Commercial uses on sites that are physically separated from the shoreline by another property or public right of way should be allowed on lands zoned for that purpose under GBMC Title 17, where there are limited developed areas of non-water-oriented commercial uses without direct access to the shoreline.
4. Commercial uses may be authorized as water related or water enjoyment if they incorporate required and appropriate design and operational elements.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all commercial development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water oriented commercial uses on the shoreline are prohibited unless they meet the following criteria:
    a) 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; or

b) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or

c) If the site is physically separated from the shoreline by another property or public right of way.

3. Non-water-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

4. Commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020, such as navigation, recreation, and public access.

7. Forest Practices

a. Applicability

Forest practices are incompatible with goals for shoreline areas within the City boundaries.

b. Policies

1. Prohibit forest practice activities within all shoreline environment designations.

c. Regulations

1. Forest practices are prohibited in all shoreline environment designations.

2. For the purpose of this SMP, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this SMP, including vegetation conservation, and shall be limited to the minimum necessary. The removal of trees in shorelines of statewide significance shall be limited. Exceptions to this standard shall require a shoreline conditional use permit.

8. In-Stream Structural Use

a. Applicability

In-stream structural uses allowed in the City are limited to fish habitat enhancements, which are only found within the Aquatic shoreline environment designation.

b. Policies

1. Fish habitat enhancements are in-stream structural uses that protect and preserve ecosystem-wide processes, ecological functions, and cultural resources.

c. Regulations

1. In-stream structural uses such as fish habitat enhancements shall be designed and permitted to meet all applicable City, state, and federal codes and regulations.

9. Industry and Manufacturing

a. Applicability

The provisions in this Section apply to all industry and manufacturing uses and development types permitted within the shoreline jurisdiction. Industry and manufacturing refers to mean establishments engaged in the mechanical or chemical transformation of materials or substances into new products and includes high-technology light industry.

b. Policies

1. Industry and manufacturing should be permitted as a permitted or conditional use only in the High Intensity Environment.
2. Preference should first be given to water-dependent industry and manufacturing uses over non-water-dependent industry and manufacturing uses and second, give preference to water-related and water enjoyment industry and manufacturing uses over non-water-oriented industry and manufacturing uses.
3. Industry and manufacturing uses on sites that are physically separated from the shoreline by another property or public right of way should be allowed on lands zoned for that purpose under GBMC Title 17, where there are limited developed areas of non-water-oriented industry and manufacturing uses without direct access to the shoreline.
4. Industry and manufacturing uses may be authorized as water related or water enjoyment if they incorporate required and appropriate design and operational elements.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent industry and manufacturing development unless such improvements are demonstrated to be infeasible or inappropriate.

2. Non-water oriented industry and manufacturing uses on the shoreline are prohibited unless they meet the following criteria:

    a) 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; or

    b) Navigability is severely limited at the proposed site; and the industry and manufacturing use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration.

3. Non-water-oriented industry and manufacturing development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

4. Non-water-dependent industry and manufacturing uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

5. Industry and manufacturing development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020, such as navigation, recreation, and public access.

10. Medical

a. Applicability

The provisions in this Section apply to all medical uses and development types permitted within the shoreline jurisdiction.

b. Policies

1. Medical uses should be permitted as a permitted use only in the High Intensity and Shoreline Residential Environments.

2. Preference should first be given to water-dependent medical uses over non-water-dependent medical uses and second, give preference to water-related and water enjoyment medical uses over non-water-oriented medical uses.

3. Medical uses on sites that are physically separated from the shoreline by another property or public right of way should be allowed on lands zoned for that purpose under GBMC Title 17, where there are limited developed areas of non-water-oriented medical uses without direct access to the shoreline.

4. Medical uses may be authorized as water related or water enjoyment if they incorporate required and appropriate design and operational elements.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent medical development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water oriented medical uses on the shoreline are prohibited unless they meet the following criteria:
    a) 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; or
    b) Navigability is severely limited at the proposed site; and the medical use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
    c) If the site is physically separated from the shoreline by another property or public right of way.
3. Non-water-dependent medical uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
4. Medical development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020, such as navigation, recreation, and public access.

11. Mining

a. Applicability

Mining uses are incompatible with goals for shoreline areas within the City boundaries.

b. Policies

1. Prohibit mining uses within all shoreline environment designations.

c. Regulations

1. Mining uses are prohibited in all shoreline environment designations.

12. Parking

a. Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline

use. Parking as a primary use or parking which serves a use not permitted in the shoreline jurisdiction is prohibited.

b. Policies

1. Parking should be only an accessory to a permitted or conditional uses in the High Intensity, Shoreline Residential, Urban Conservancy, and Natural Environments.
2. Parking in shoreline areas should be minimized.
3. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, and vegetation and habitat maintenance, and should result in no loss of ecological functions.
4. 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 the 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 run-off 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 parking facilities are 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 non-residential uses shall be landscaped with vegetation in such a manner that plantings provide an effective "full-screen" within three (3) years of project completion when viewed from adjacent areas within the shoreline jurisdiction.
6. New and reconstructed parking areas within the High Intensity Shoreline Environment shall utilize LID techniques if technically appropriate and as described in the most recent edition of the *Low Impact Development Manual: Technical Guidance for Puget Sound*.

13. 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 non-commercial shoreline recreational facilities (excluding private residences) in the City. Commercial recreational development shall be consistent with the provisions for commercial development above.

b. Policies

1. Recreational development should be permitted as a permitted or conditional use only in the High Intensity, Shoreline Residential, Urban Conservancy, and Natural Environments.
2. Water-oriented recreational uses in the shoreline jurisdiction should be preferred. Non-water-oriented recreational facilities may be allowed as a primary use where they do not displace water oriented uses.
3. The coordination of local, state, and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's Comprehensive Plan.
4. Recreational developments should be designed to preserve, enhance, or create scenic views and vistas.
5. The use of publicly owned lands for public access and development of recreational opportunities should be encouraged.
6. Priority for land acquisition should be given to open space that provides wildlife habitat and offers opportunities for education and interpretation within the shoreline jurisdiction.
7. 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 non-profit and service organizations, and incorporated into the park and open space system.
8. 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.
9. Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
10. Recreational activities should not contribute to a net loss of shoreline ecological functions.

c. Regulations

1. All buildings and structures associated with a recreational use, except water dependent structures, such as boardwalks and appurtenances that provide access to the water for that use, shall maintain the standard setback as outlined in the critical areas documents cited in the City's SMP (Chapter 3, Section B.3). Existing buildings or structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.
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's Shoreline Administrator 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) non-commercial recreation sites in the shoreline corridor.
4. The location, design, and operation of recreational development shall be consistent with the purpose of the environmental designation in which they are allowed.
5. All recreational developments shall make adequate provisions for the following:
    a) Public access to the shoreline;
    b) Non-motorized and pedestrian access;
    c) The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;
    d) Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
    e) Signs indicating the public's right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
    f) Buffering such development from adjacent private property or natural area.
6. In approving shoreline recreational developments, the City's Shoreline Administrator shall ensure that the development will maintain, enhance, or restore desirable shoreline features.

7. 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.
8. Recreation developments such as 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 the shoreline jurisdiction.
9. A new or expanded shoreline recreational development or use that does not provide public access may be authorized provided the applicant has demonstrated and the City's Shoreline Administrator has determined that one or more of the following provisions apply:
    a) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
    b) Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
    c) The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
    d) Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or
    e) Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and they cannot be mitigated.
10. In addition, a new or expanded shoreline recreational development or use that does not provide public access may be authorized provided further, that the applicant has first demonstrated and the City's Shoreline Administrator has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
    a) Regulating access by such means as limiting hours of use to daylight hours;
    b) Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping; and
    c) Providing access that is separated physically from the proposal, such as an off-site viewpoint, or a trail system.
11. Whenever the applicant demonstrates that public access cannot be provided per regulation 10 above, the City's Shoreline Administrator shall require the applicant to make an in-lieu of payment in accordance with RCW 82.02.020 as a condition of granting a permit.

14. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels, or portions thereof, which are designed for and used or intended to be used to provide a place of abode for human beings. This includes the creation of new residential lots through land division and single family residences and other detached 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, fences, and saunas. Single-family and multi-family development is limited to those underlying zones that currently allow it and subject to the requirements therein.

b. Policies

1. Residential development should be permitted as a permitted or conditional use only in the High Intensity, Shoreline Residential, Urban Conservancy, and Natural Environments.
2. Residential development should be permitted only where there are adequate provisions for utilities, circulation, and access.
3. Single-family residences are the most common form of shoreline development in the City. They are a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multi-family development and the creation of new residential lots through land division.
4. Recognizing the nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water (Chapter 3, Section B.3 of this SMP) and ample open space among buildings and structures to protect natural features, preserve views, and minimize use conflicts.
5. Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.
6. Residential development should be designed to preserve existing native shoreline vegetation, control erosion and protect water quality using BMPs and where possible, utilizing LID technologies.

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 run-off.
8. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline 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.
9. Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.
10. New over-water residences, including floating homes, are not a preferred use and should be prohibited.
11. New multi-family residential development, including the subdivision of land for more than four parcels, should provide public access in conformance to the public access planning and Chapter 3, Section B(6) – Public Access.
12. If allowed by the City's Shoreline Administrator in the Shoreline Residential Environment, commercial development should be limited to water-oriented uses.

c. Regulations

1. Residential development is permitted in the Shoreline Residential Environment subject to the standards of the underlying zoning regulations, the general regulations in Chapter 3, and the shoreline modification provisions in Chapter 5 of this SMP.
2. Property owners with failing septic systems that pose a risk to health or the environment shall be required to fix this problem.
3. Structures or other development accessory to residential uses are permitted in the shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
4. All additions to residential buildings or structures must comply with all standards in this SMP, including required shoreline setbacks.
5. Non-conforming residential buildings or structures that are modified intentionally, replaced, repaired or enlarged are subject to the requirements in Chapter 6 (Administration – Non-Conforming Use and Development Standards).
6. Non-conforming residential buildings or structures that are modified, replaced, or repaired following a catastrophic loss are subject to the requirements in Chapter 6 (Administration – Non-Conforming Use and Development Standards).

7. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
8. The stormwater run-off for all new or expanded pavements or other impervious surfaces shall be designed in accordance with the City's adopted Surface Water Design Manual and, if feasible, use LID BMPs found in the Low Impact Development Technical Guidance Manual for Puget Sound.
9. Residential 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's Shoreline Administrator may request necessary studies by qualified professionals to determine compliance with this standard.
10. Residential development shall be subject to the shoreline stabilization, critical areas protection, and water quality protection of this SMP.
11. New multi-family development and subdivisions larger than four parcels shall provide public access in conformance with this SMP.
12. The land division process for creating new residential lots must do the following:
    a) Plats and subdivisions must be designed, configured, and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
    b) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
    c) Be consistent with the applicable SMP shoreline environment designations and standards.
    d) Implement the provisions of WAC 173-26-211 and WAC 173-26-221.
13. Legally established residential structures and appurtenant structures that are used for a conforming use, but that do not meet standards for the following, shall be considered a conforming structure:
    a) Setbacks, buffers, or yards; area; bulk; height; or density; and
    b) Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions.
14. For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.
15. Nothing in this Section:

a) Restricts the ability of the SMP to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

b) Affects the application of other federal, state, or local government requirements to residential structures.

15. 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 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.
3. Billboards are not an appropriate use of the shoreline area within the shoreline jurisdiction.

c. Regulations

1. Signs shall comply with the City's sign regulations in the GBMC.
2. Sign plans and designs shall be submitted for review and approval at the time of any shoreline permit application submittal.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

16. 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 (including pedestrian bridges), bikeways, trails, heliports, and other related facilities. In the City, these uses account for a minimal percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

b. Policies

1. Normal operation and maintenance of all transportation facilities in the shoreline jurisdiction should be exempt.
2. Construction of new transportation facilities in the shoreline jurisdiction should be minimized, and allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
3. Expansion of existing transportation facilities should be allowed by conditional use if such facilities are found to be in the public interest.
4. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities, and motorized and non-motorized forms of transportation should be encouraged, where feasible.
5. When new transportation development occurs in shoreline areas, acquire and develop physical and visual public access to the shoreline where topography, view, and natural features warrant.
6. New stream crossings associated with transportation should be minimized. Where necessary, culverts or bridges should be designed to provide for stream functions such as fish passage and accommodate the flow of water, sediment, and woody debris during storm events.

c. Regulations

1. New transportation facilities in the shoreline jurisdiction shall be minimized and allowed only when related to and necessary for the support of permitted shoreline activities.
2. All proposed transportation facilities must demonstrate how they have been planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features.
3. Development of transportation facilities 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. Any road expansion affecting streams and waterways shall be designed to allow fish passage and minimum impact to habitat.
5. New river and stream crossings associated with transportation uses shall be avoided if possible and shall be minimized in number and total area affected (e.g. perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to WDFW 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.

6. Expansion of existing transportation facilities within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
    a) No alternative route is feasible;
    b) The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
    c) The roadway is found to be in the public interest.
7. 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.
8. 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.
9. All debris and other waste materials from construction of transportation facilities shall be disposed of in such a way as to prevent their entry into any water body.
10. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
11. Circulation system plans shall include systems for pedestrian, bicycle, and public transportation where appropriate.
12. Streets within the shoreline jurisdiction shall be designed with the minimum pavement area required. Pervious 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.
13. The City shall give preference to mechanical means for roadside brush control on roads in the shoreline jurisdiction rather than the use of herbicides.

17. Utilities (Primary)

a. Applicability

Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this Section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

b. Policies

1. New primary utilities should be located outside of the SMA jurisdiction unless no other feasible option exists. Where allowed they should utilize existing

transportation and utility sites, rights-of-way and corridors whenever possible, 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. "Solid waste facilities" are not to be construed as storage of recyclable materials.
3. Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
4. Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

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 the 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. Development of utility facilities 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 the City, 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 the shoreline environment.
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. 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."
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 meeting(s) prior to the issuance of a shoreline 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.

18. Utilities (Accessory)

a. Applicability

Utilities have been split into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water and sewer service lines, 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.

b. Policies

1. Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.
2. Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground, where feasible.
3. Utility facilities should be designed and located in a manner that preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses. Existing utilities are not allowed to justify more intense development.

c. Regulations

1. Through coordination with the City, 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, accessory 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. Development of utility facilities 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 City's 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 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. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.
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 fully substantiate the infeasibility of existing routes.

Chapter 5: Shoreline Modification Provisions

A. Introduction

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity 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 addresses Shoreline Stabilization, Dredging and Disposal, Fill, and Overwater Structures.

B. Table of Shoreline Modification Activities

1. Interpretation of Shoreline Modification Table

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. See standards following the table for a full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

Table 6 - Shoreline Modifications

KEY
P = Permitted Use, and only if zoning allows
C = Conditional Use, subject to the shoreline conditional use review procedures (Chapter 6), and only if zoning allows
X = Prohibited

Shoreline Modification Activity (1)	High Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Shoreline Stabilization					See Adjacent Upland Environment
Non-Structural Stabilization Measures					
Restoration and Enhancement	P	P	C	C	
Soil Bioengineering	P	P	C	X	
Structural Stabilization Measures					
Bulkheads	C	C	X	X	
Groins	X	X	X	X	
Riprap	C	C	C	C	
Weirs	X	X	X	X	
Dredging and Disposal					
Dredging	C	C	C	C	
Fill					
Fill upland of OHWM	C	C	C	C	
Fill waterward of OHWM	C	C	C	C	
Overwater Structures (1)	X	X	X	X	

Note:

1. Does not include Transportation Facilities, which are addressed in Chapter 4, Section C(16).

C. General Modifications

1. Applicability

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties. Additional requirements as contained in other Chapters of this SMP apply. Where a general standard, environment standard, or use standard conflicts with the provisions contained in this Chapter, the more restrictive shall apply.

2. General Modification Policies and Regulations

a. 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 City should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function. This is to be achieved 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.

b. Regulations

1. All shoreline modifications must be in support of a permitted 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 modification activities.
3. In reviewing shoreline modification permits, the City's Shoreline Administrator shall require steps to reduce significant ecological impacts according to the mitigation sequence described under 'mitigation' in Chapter 7 – Definitions.
4. The City's 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.

D. Shoreline Stabilization

Shoreline stabilization includes structural and nonstructural methods taken to address erosion impacts to property and dwellings caused by natural processes, such as current, flood, tides, wind, or wave action. New stabilization measures include enlargement of existing structures. These actions include all structural and non-structural methods. "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 bioengineered vegetation measures or shoreline enhancement. Non-structural methods include building setbacks, relocation of the building or structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

Generally, the harder the construction measure, the greater the effect on shoreline processes, including sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the positive aspects of each of these processes in order to retain the benefits of these natural occurrences. Erosion

does not occur without accretion, the deposition and accumulation of eroded material. Likewise, accretion cannot occur unless material has been eroded.

General policies and regulations addressing shoreline stabilization methods applicable to the City are presented in the General Policies and Regulations Sections. Additional discussion of the individual stabilization methods, and policies and regulations specific to them, are provided following that Section.

1. Applicability and Definitions

a. Restoration and Enhancement

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 used often to create a shore above the OHWM. Restoration or re-creation of a shore feature may require a rock and gravel matrix and/or creation of other materials appropriate for the intended use.

b. Soil Bioengineering

Soil bioengineering is the term given to the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material; fabric or other soil stabilization techniques; 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 natural character of the shoreline. Soil bioengineering is the preferred "best practices" choice when considering shoreline stabilization.

c. Bulkheads

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

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 SMP, such as Fill and Residential Development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this Chapter.

d. 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 are not applicable in the City's shoreline jurisdiction.

e. Riprap

Riprap is a layer, facing, or protective mound of stones placed along rivers and streams to prevent erosion, scour, or sloughing of a structure or embankment. Riprap is also the term for the stone so used. Currently, riprap can be found along the Skykomish River.

f. Weirs

A weir is a small overflow-type dam commonly used to raise the level of a river or stream. Because a weir will typically increase the oxygen content of the water as it passes over the crest, a weir can have a detrimental effect on the local ecology of a river system. A weir will also artificially reduce the upstream water velocity, which can lead to an increase in siltation. A weir may pose a barrier to migrating fish. Weirs are not applicable in the City's shoreline jurisdiction.

2. General Policies and Regulations

a. Policies

1. Proposals for shoreline stabilization activities should address the impact of these activities on the shoreline environment. This planning should consider off-site erosion or damage that might occur because of shoreline stabilization structures or activities.
2. Non-structural stabilization measures are preferred over "soft" structural measures. Soft structural shoreline stabilization measures are strongly preferred over hard structural shoreline stabilization. Proposals for hard and soft structural solutions, including bulkheads, should be allowed only when it is demonstrated that non-structural methods are not feasible. Hard structural shoreline stabilization measures should be allowed only when it is demonstrated that soft structural measures are not feasible.
3. Structural shoreline stabilization should be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing, legally established buildings, structures, primary uses, and public

improvements, and that there are no other feasible options to the proposed shoreline stabilization that have less impact on the shoreline environment.

4. New stabilization structures for existing primary residential structures are allowed only where no alternatives including relocation or reconstruction of existing structures are feasible and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.
5. Shoreline stabilization structures should be located, designed, and constructed to minimize adverse impact on the property of others.
6. Shoreline modifications should be limited in number and extent, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur, and require mitigation sequencing, if needed.
7. New development requiring bulkheads or similar protection should not be allowed. All new shoreline development should be located and designed to prevent or minimize the need for shoreline modification activities.
8. Mitigation for shoreline stabilization should be provided to achieve no net loss of ecological functions necessary to sustain shoreline natural resources.
9. Shoreline modifications should be appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

b. Regulations

(I) General Shoreline Stabilization – Basic Requirements

1. Soft and hard structural solutions to reduce shoreline 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 improvements. The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion damage within 3 years, urgency of replacement, alternative solutions, and other pertinent factors. Non-structural solutions include, but are not limited to, soil bioengineering, enhancement, alternative site designs, drainage improvements and increased building setbacks for proposed buildings and structures.
2. Geotechnical reports pursuant to this Section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating periods and rates of erosion and geotechnical report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms:
    a) That there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or

b) Where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

3. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years that geotechnical report may still be used to justify more immediate authorization to protect against erosion using soft measures.

4. Impacts to sediment transport shall be avoided or minimized.

(II) General Shoreline Stabilization – New Development

1. New development, including the division of land into new parcels, shall be located and designed to eliminate the need for concurrent or future shoreline stabilization where feasible. New non-water dependent development that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties is prohibited.

2. New development, including single-family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below are met:

   a) The need to protect the development from damage due to erosion cause by natural processes, such as currents and waves, and by man-made processes, such as boat wakes, 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 measures, 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 building or structure, as demonstrated by a geotechnical analysis prepared by a geotechnical engineer of related professional licensed and in good standing in the State of Washington.

4. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited

(III) General 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. These

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

(IV) General Shoreline Stabilization – Replacement and Repair

1. 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.
2. Where existing structural stabilization is replaced by 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.
3. A major repair of a hard shoreline stabilization structure shall be allowed when the existing primary building is ten (10) feet or less from 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 50% or greater than the linear length of the shoreline stabilization measure; or
    b) A repair to more than 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.
4. Minor repairs are repairs that do not meet the threshold established above and they shall be allowed without a demonstration of need.

(V) General Shoreline Stabilization – Design Requirements

1. Shoreline stabilization and modification projects shall first avoid, and then minimize, 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 should 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 and not to interfere substantially with visual access to the water.
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 City's Shoreline Administrator of all shoreline stabilization is required. All shoreline modification activities 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. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See the public access provisions in WAC 173-26-221(4). Where feasible, ecological restoration and public access improvements should be incorporated into the project.
10. 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.

(VI) Restoration and Enhancement

1. Enhancement along the Skykomish River, Wallace River, and May Creek may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt or adversely affect adjacent properties or habitat and all other standards of the SMP are followed.
2. Enhancement is limited to the placement of no more than twenty-five (25) cubic yards of material below the OHWM. Proposals that exceed this threshold shall be subject to the requirements for Shoreline Fill in this Chapter; shall require a conditional use permit; and they shall only be allowed in conjunction with a water-dependent or public use permitted by this SMP, and for fisheries, aquaculture, or wildlife enhancement projects.

3. Natural restoration/enhancement activities shall not:

    a) Extend waterward more than the minimum amount necessary to achieve the desired stabilization; or

    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 shore shall be as similar as possible to that of the natural shoreline sediment, but large enough to resist normal current action at the site.

5. The restored shore shall approximate, and may slightly exceed, the natural shore width, height, bulk, or profile, but not as much as to create additional dry land.

6. Shoreline enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected and where the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

(VII) 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. Unless Critical Area 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 (100) percent reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to reestablish vegetation adequately shall be replanted with approved plant materials until the plantings are viable. The City's Shoreline Administrator may establish additional performance standards in administrative rules.

3. Bank stabilization in the form of a vegetated buffer zone shall be maintained for a minimum of three (3) years. Maintenance includes, but is not limited to, weeding, watering, dead plant replacement. The buffer zone shall exclude activities that could disturb the site. The planting of native vegetation and the removal of invasive vegetation does not constitute disturbance of the site. Where determined necessary by the City's Shoreline Administrator, fencing may be required to ensure protection of buffer 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.

(VIII) Bulkheads

1. Bulkhead design and development shall conform to all other applicable local, state, and federal agency regulations, including regulations for shoreline stabilization in this Chapter.
2. On shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed bulkhead would not cause 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 riparian area 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 building or structure unless the building or structure is a residence that was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement bulkhead shall be next to the existing shoreline stabilization structure.
5. Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses buildings, or structures from erosion caused by water action provided that:
    a) The replacement bulkhead is designed, located, sized, and constructed to assure no net loss of ecological functions;
    b) The existing bulkhead is removed; and
    c) The proposal includes a report prepared by a geotechnical engineer or other qualified professional that evaluates the necessity of the bulkhead by estimating timeframes and rates of erosion, urgency of replacement (within 3 years), alternative solutions and other pertinent factors.
6. When a bulkhead is required at a public access site, provisions for safe access to the water shall be incorporated into bulkhead design.
7. Stairs or other permitted structures may be built into a bulkhead, but they shall not extend waterward of a bulkhead.
8. Fill behind bulkheads shall be limited to an average of one (1) cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations in this SMP pertaining

to fill activities and the requirement for obtaining a shoreline substantial development permit.

(IX) Groins

1. Groins are prohibited within all shoreline environment designations.

(X) Riprap

1. Riprap design and development shall conform to all other applicable local, state, and federal agency regulations, including regulations for shoreline stabilization in this Chapter.
2. On shorelines where no riprap is adjacent, the construction with riprap shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed riprap would not cause erosion of the adjoining properties.
3. Riprap may tie in flush with existing riprap on adjoining properties, provided that the new area of riprap does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining area of riprap. In such circumstances, the remaining portion of the riprap shall be placed landward of the existing OHWM such that no net loss of riparian area 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 riprap shall not encroach waterward of the OHWM or existing buildings or structures unless the building or structure is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement bulkhead shall be next to the existing shoreline stabilization structure.
5. Replacement of riprap may be permitted if there is a demonstrated need to protect principal uses , buildings, or structures from erosion caused by water action provided that:
    a) The replacement riprap is designed, located, sized, and constructed to assure no net loss of ecological functions;
    b) The existing riprap is removed; and
    c) The proposal includes a report prepared by a geotechnical engineer or other qualified professional that evaluates the necessity of the riprap by estimating timeframes and rates of erosion, urgency of replacement (within 3 years), alternative solutions and other pertinent factors.
6. When a riprap is required at a public access site, provisions for safe access to the water shall be incorporated into design of the riprap.

(XI) Weirs

1. Weirs are prohibited within all shoreline environment designations.

E. Dredging and Disposal

1. 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 river, stream, and associated shorelines, side channels, and wetlands. In a riparian 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 creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. Frequently, when 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 in the following ways:

1. Temporary reduction of water clarity from suspended sediments,
2. Loss of aquatic plants and animals by direct removal or from the sedimentation of suspended materials,
3. Alteration of the nutrient and oxygen levels of the water column, or
4. Suspension of toxic materials from the sediments into the water column.

2. Dredging Policies and Regulations

a. 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. Dredging and dredge material disposal should avoid or minimize significant ecological impacts. 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's Shoreline Administrator may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

b. Regulations

1. Dredging and disposal of dredge material shall avoid 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 and habitat enhancement projects;

      AND

   d) As part of an approved habitat improvement project;
   e) When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired;
   f) When other solutions would result in greater environmental impact;
   g) If it improves water quality; ***and***
   h) When applicable permits of other local, state and federal agencies have been obtained.
4. Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth, and width.
5. 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.
6. 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. Dredge disposal within river channel migration zones is discouraged, and in the limited instances when it is allowed, requires a Shoreline CUP.
7. Dredging material, which will not subsequently cause violation of State Water Quality Standards, may be used in permitted landfill projects.
8. Dredging shall be timed so that it does not interfere with aquatic life.

9. Depositing dredge materials in water areas is prohibited
10. Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
11. Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

F. Fill

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

The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

2. Fill Policies and Regulations

a. Policies

1. Shoreline fill should be permitted as a conditional use in all shoreline environments, 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's Shoreline Administrator 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. Fill waterward of the OHWM shall require a conditional use permit. It should be restricted to the minimum necessary to:

a) Support water-dependent uses or public access;

b) Provide for the cleanup and disposal of contaminated sediments as part of an interagency clean-up plan;

c) Dispose of dredged sediments in accordance with the Washington State Department of Natural Resources (DNR) rules;

d) Expand or alter transportation facilities of statewide significance when no other alternatives are feasible; or

e) Support mitigation actions and environmental restoration and enhancement projects, only when other solutions would result in greater environmental impact.

5. Shoreline fills should be designed and located so that there will be no significant damage to 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 perimeter of fills 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.

b. Regulations

1. At a minimum, fill proposals must demonstrate that they will result in no net loss of shoreline ecological functions.

2. Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation of dry upland shall be considered fill and shall comply with the requirements of the City.

3. Fill waterward of the OHWM shall require a conditional use permit and shall be restricted to the minimum necessary to:

a) Support water-dependent uses, ***or***

b) Provide public access, ***or***

c) Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan, ***or***

d) Allow the disposal of dredged sediments in accordance with DNR rules, ***or***

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 only when other solutions would result in greater environmental impact.

4. Fill shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
5. All perimeters of fill shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.
6. 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; and
   b) Adversely alter natural drainage and circulation patterns, or significantly reduce floodwater-holding capabilities.
7. No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted within the Skykomish River, Wallace River, or May Creek shoreline areas.
8. Any placement or removal of materials landward of the OHWM shall comply with the provisions of Vegetation Conservation (Clearing and Grading) of this SMP.
9. Location, design, and construction of all fills shall protect ecological processes and functions, including channel migration.

G. Overwater Structures

1. Applicability

Regulations for overwater structures are not applicable to the City. Bridges for motorized and non-motorized uses do not fall under this Section. Regulations for bridges for motorized or non-motorized uses are addressed in Chapter 4 under Transportation Facilities. There are no known overwater structures such as piers, docks, or floats existing or anticipated within the City's shoreline jurisdiction. The Skykomish River, Wallace River, and May Creek do not generally accommodate navigation. The City does not anticipate the future demand for overwater structures. Overwater structures on the Skykomish River, Wallace River, and May Creek are therefore prohibited in the City's shoreline environment.

2. Overwater Structures Policies and Regulations

a. Policies

1. Prohibit overwater structures within all shoreline environment designations.

b. Regulations

1. Overwater structures are prohibited in all shoreline designations.

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Chapter 6: Administration

A. Purpose and Applicability

The following outlines the administrative system that assigns responsibilities for implementation of the SMP and shoreline permit review, prescribes an orderly process by which to review proposals and permit applications, and ensures 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. Where inconsistencies or conflicts with other Chapters of the GBMC occur, this Chapter shall apply.

B. Program Administrator

The City's Shoreline Administrator is hereby vested with:

1. Ensuring overall responsibility for administering the SMA and this SMP;
2. Authority to approve, approve with conditions, or deny shoreline permits or permit revisions in accordance with the policies and provisions of this SMP; and
3. Authority to grant statements of exemption from shoreline substantial development permits in accordance with the policies and provisions of this SMP.

The duties and responsibilities of the City's Shoreline Administrator shall include:

1. Ensuring that administrative provisions are in place to make sure that permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.
2. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this SMP.
3. Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.
4. Preparing and using application forms deemed essential for the administration of this SMP.
5. Determining if a shoreline substantial development permit, variance, or conditional use permit is required.
6. Collecting applicable fees, as established by the City in Chapter 3.06 GBMC.

7. Determining that the applicant provides all applications and necessary information and materials.
8. Providing copies of permit applications to relevant staff and agencies for review and comment.
9. Conducting field inspections, as necessary.
10. Reviewing, insofar as possible, all provided and related information deemed necessary for an application's needs.
11. 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.
12. Submitting shoreline substantial development permit, variance, and conditional use permit applications and written recommendations and findings on such permits to the appropriate body for consideration and recommendation for final action.
13. Assuring that proper notice is given to appropriate persons and the public for all hearings.
14. Forwarding shoreline permits to Ecology for filing or action.
15. Providing technical and administrative assistance to the City's Planning Commission and City Council as required for effective and equitable implementation of this SMP and the SMA.
16. Investigating, developing, and proposing amendments to this SMP as deemed necessary to more effectively and equitably achieve its goals and policies.
17. Enforcing and seeking remedies for alleged violations of this SMP, the provisions of the SMA and this SMP or of conditions of any approved shoreline permit issued by the City. The City's Shoreline Administrator may delegate these enforcement duties to a designated representative.
18. Acting as the primary liaison between local and state agencies in the administration of the SMA and this SMP.

C. Review Criteria for All Developments

The following review criteria are to be used for all developments:

1. All proposed uses, activities, and development occurring within the City's shoreline jurisdiction must conform to RCW Chapter 90.58, i.e. the SMA, its implementing rules and this SMP, whether or not a permit is required.
2. The applicant shall meet all of the review criteria for all development as listed in WAC 173-27-140.

3. No authorization to undertake use or development on shorelines of the state shall be granted by the City unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMA and the SMP.
4. No permit shall be issued for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where the SMP does not prohibit the same and then only when overriding considerations of the public interest will be served.
5. A substantial development shall not be undertaken within the jurisdiction of the SMA unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.
6. The City's Shoreline Administrator may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.
7. As required by RCW 36.70B.110(11), the City shall adopt procedures for administrative interpretation of SMPs. When developing and adopting procedures for administrative interpretation of its SMP, the City shall include provisions requiring consultation with Ecology to insure that any formal written interpretations are consistent with the purpose and intent of RCW Chapter 90.58 and the applicable guidelines. Pursuant to WAC 173-26-140, any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review. An interpretation of this SMP will be enforced as if it is part of this code. Formal interpretations shall be kept on file by the City and shall be available for public review, and shall periodically be incorporated into this SMP during required updates processes.
8. Any public federal project carried out by a federal agency, or private project licensed or permitted by a federal agency, or carried out with a federal grant, must be determined by the City's Shoreline Administrator to be consistent with the state's CZM program per WAC 173-27-060.
9. RCW 36.70A.480 governs the relationship between SMPs and development regulations to protect critical areas that are adopted under RCW Chapter 36.70A.

D. Shoreline Substantial Development Permits

The following guidelines are to be used for all shoreline substantial development permits:

1. A shoreline substantial development permit shall be granted only when the development proposed is consistent with the following:
    a) The policies and procedures of the SMA;
    b) Applicable state regulations; and

c) The provisions of this SMP.

2. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-150. The City's Shoreline Administrator may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and the City's SMP.

E. Shoreline Substantial Development Permit Exemptions

The following guidelines are to be used in determining whether a development proposal is exempt from the shoreline substantial development permit.

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the shoreline substantial development permit process;
2. An exemption from the shoreline substantial development permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the SMA and this SMP. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a shoreline substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a variance;
3. The burden of proof that a development or use is exempt from the permit process is on the applicant;
4. If any part of a proposed development is not eligible for exemption, then a shoreline substantial development permit is required for the entire proposed development project; and
5. The City's Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and the SMP.
6. To qualify for an exemption, the proposed use, activity, or development must meet all of the requirements for an exemption as described in WAC 173-27-040. Exemptions include the following:
    a) Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state;
    b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
    c) Construction of the normal protective bulkhead common to single-family residences;

d) Emergency construction necessary to protect property from damage by the elements.;

e) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels;

f) Construction or modification of navigational aids such as channel markers and anchor buoys;

g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or the City having jurisdiction thereof, other than requirements imposed pursuant to RCW Chapter 90.58;

h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences;

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

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

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

l) Any project with a certification from the governor pursuant to RCW Chapter 80.50;

m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under WAC 173-27-030;

n) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or Ecology jointly with other state agencies under RCW Chapter 43.21C;

o) Watershed restoration projects as defined under WAC 173-27-030; or

p) A public or private project that is designed to improve fish or wildlife habitat or fish passage, per WAC 173-27-030.

7. All proposals for activities on shorelands that are considered exempt shall be documented with an exemption letter that details what is being approved. Local governments are

encouraged to send all exemptions to Ecology. Exempt development as defined herein shall not require a shoreline substantial development permit, but may require a variance, conditional use permit, and/or a letter of exemption.

8. Letter of exemption. Some projects conducted on shorelines of the state also require review and approval by federal agencies. Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The following is intended to facilitate Ecology's coordination of local actions, with regard to exempt development, with federal permit review.

   a) The City's Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the City's Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:

      1) A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. The provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers; or

      2) A Section 404 permit under the Federal Water Pollution Control Act of 1972. The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project, which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.

   b) Ecology will be notified prior to issuance of the exemption. The letter of exemption shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City' Shoreline Administrator's analysis of the consistency of the project with the SMP and the SMA. The exemption granted may be conditioned to ensure that the activity is consistent with the SMP and the SMA.

   c) Before determining that a proposal is exempt, the City's Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

   d) The City's Shoreline Administrator may specify other developments not described within subsection (a) of this Section as requiring a letter of exemption prior to commencement of the development.

F. Conditional Uses

The following guidelines are to be used for all shoreline conditional use permits:

1. Purpose. The purpose of a conditional use permit is to provide a system within the SMP, which allows flexibility in the application of use regulations 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's Shoreline Administrator or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and the SMP.

2. Criteria for Granting Shoreline Conditional Use Permits. Uses that are classified or set forth as conditional uses in the SMP may be authorized provided the applicant meets all of the review criteria for conditional uses in WAC 173-27-160, listed below:
   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 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.
3. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
4. 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.
5. Uses, which are specifically prohibited by the SMP, may not be authorized.

G. Variances

The following guidelines are to be used for all shoreline variances:

1. Purpose. The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the 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. These provisions should be applied in a manner, which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner. 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.

2. Variances for development that will be located landward of the OHWM and landward of any wetland may be authorized provided the applicant meets all of the review criteria for variances in WAC 173-27-170, listed below:
    a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable SMP precludes, or significantly interferes with, reasonable use of the property;
    b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the 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 authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to the shoreline environment;
    d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
    e) That the variance requested is the minimum necessary to afford relief; and
    f) That the public interest will suffer no substantial detrimental effect.
3. Variances for a development and/or uses that will be located waterward of the OHWM 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 (2) of this Section; and
    c) That the public rights of navigation and use of the shorelines will not be adversely affected.
4. 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.
5. Variances from the use regulations of the SMP are prohibited.

H. Non-Conforming Use and Development Standards

"Non-conforming use or development" means a shoreline use or development which was lawfully constructed or 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 use and development standards are addressed in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the GBMC, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City's Shoreline Administrator.

I. Permit Process

The following guidelines are to be used for the shoreline permit process:

1. Applicants shall apply for shoreline exemptions, shoreline substantial development permits, variances, and conditional use permits on forms provided by the City's Shoreline Administrator. Such forms will include the Shoreline Management Act Permit Data Sheet and Transmittal Letter, per WAC 173-27-990, and will include all application information per WAC 173-27-180.
2. A complete application for a shoreline substantial development permit, variance, or conditional use permit shall contain, as a minimum, the following information:
    a) The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
    b) The name, address and phone number of the applicant's representative if other than the applicant.
    c) The name, address and phone number of the property owner, if other than the applicant.
    d) Location of the property. At a minimum, this shall include the property address and identification of the section, township, and range to the nearest quarter, quarter section, or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
    e) Identification of the name of the river or creek shoreline associated with the proposal site.
    f) A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
    g) A general description of the property as it now exists including its physical characteristics, improvements, and structures.
    h) A general description of the vicinity of the proposed project including identification of the adjacent uses, structures, and improvements, intensity of development and physical characteristics.

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

1) The boundary of the parcel(s) of land upon which the development is proposed;

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

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

4) A delineation of all wetland areas that will be altered or used as a part of the development;

5) A general indication of the character of vegetation found on the site;

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

7) Where applicable, landscaping plans for the project;

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

9) Quantity, source, and composition of any fill material that is placed on the site whether temporary or permanent;

10) Quantity, composition, and destination of any excavated or dredged material;

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

12) Where applicable, a depiction of the impacts to views from existing residential uses and public areas; and

13) On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features, and circumstances on

the property that provide a basis for the request, and the location of adjacent structures and uses.

3. Shoreline substantial development permits, variances, and conditional use permits are Type III applications and shall be processed and subject to the applicable regulations of Chapter 19.01 GBMC. Shoreline exemptions are processed according to the process outlined in SMP Chapter 6 Section E.

4. An applicant for a shoreline substantial development permit, who wishes to request a variance and/or conditional use permit, shall submit the variance and/or conditional use application(s) and the shoreline substantial development permit application simultaneously.

5. Public notice. The City adopts the following system to provide for the notification of the public, Ecology, and other agencies with jurisdiction of applications for a shoreline substantial development permit, variance, or conditional use permit. The City's Shoreline Administrator shall carry out notification pursuant to this Section as a part of the integrated local permit notification procedure.

    a) The City's Shoreline Administrator shall provide a notice of application within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and WAC 173-27-180, and include the following information:

        1) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

        2) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, RCW 36.70B.090 and WAC 173-27-180;

        3) The identification of other permits not included in the application to the extent known by the City's Shoreline Administrator;

        4) The identification of existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed;

        5) The public comment period, which shall be not less than thirty (30) days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. The City's Shoreline Administrator may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

        6) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

        7) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and

8) Any other information determined appropriate by the City's Shoreline Administrator.

b) If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permits, the City's Shoreline Administrator shall provide the notice of application at least fifteen (15) days prior to the open record hearing.

c) The City's Shoreline Administrator shall assure that notice to the general public and property owners in the vicinity of such application is given by at least one of the following methods:

1) Mailing of the notice to the latest recorded real property owners as shown by the records of the Snohomish County assessor within at least three hundred (300) feet of the boundary of the property upon which the development is proposed;

2) Posting of the notice in a conspicuous manner on the property upon which the project is to be undertaken; or

3) Any other manner deemed appropriate by the City's Shoreline Administrator to accomplish the objectives of reasonable notice to adjacent landowners and the public.

d) The City's Shoreline Administrator shall provide for timely notification of individuals and organizations that request such notice in writing.

e) The City's Shoreline Administrator shall provide notice to all agencies with jurisdiction per RCW Chapter 43.21C and to all other agencies that request in writing any such notice.

6. Application review. The City's Shoreline Administrator shall make decisions on shoreline exemptions, and recommendations on applications for variances and conditional use permits based upon: (1) the policies and procedures of the SMA and related Sections of the WAC and (2) this SMP.

7. Planning Commission action. The Planning Commission shall review an application for a shoreline substantial development permit, variance, and conditional use permit. The Planning Commission shall hold an open public hearing to make a recommendation to the final decision by the City Council based upon:

a) This SMP;

b) The policies and procedures of the SMA and related Sections of the Washington Administrative Code;

c) Written and oral comments from interested persons;

d) Reports from the City's Shoreline Administrator; and

e) Title 2 – Administration and Personnel and Chapters 19.01 – Types of Project Permit Applications and 19.03 – Public Notice GBMC.

8. 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's Shoreline Administrator approval of a variance or conditional use permit, the City's Shoreline

Administrator shall submit the permit to Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City's Shoreline Administrator and the applicant within thirty (30) calendar days of the date of submittal by the City's Shoreline Administrator.

9. 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 Shoreline Administrator's final decision on shoreline substantial development permits differs from date of filing for a variance or conditional use permit. In the case of a shoreline substantial development permit, the date of filing is the date the City's Shoreline Administrator transmits its decision on the permit to Ecology. In the case of a variance or conditional use permit, the "date of filing" means the date Ecology's final order on the permit is transmitted to the City's Shoreline Administrator.
10. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The City's 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.
11. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a building or structure or prior to commencement of a non-structural activity. All uses and developments occurring within the shoreline jurisdiction shall be compliant with RCW Chapter 90.58.

J. Time Requirements of Permit

The following guidelines are to be used for the time requirements for all shoreline permits:

1. The time requirements of this Section shall apply to all shoreline substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this Chapter.
2. Notwithstanding any other provision of the GBMC, construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a shoreline substantial development permit. However, the City's Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the shoreline substantial development permit and to Ecology.
3. Authorization to conduct development activities shall terminate five (5) years after the effective date of a shoreline substantial development permit. However, the City's Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year

based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to Ecology.

4. Filing with Ecology

   a) The City's Shoreline Administrator shall submit all applications for a permit or a permit revision to Ecology once a final decision is complete. Final decision by City's Shoreline Administrator shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

   b) When a shoreline substantial development permit and a variance and/or conditional use permit are required for a development, the submittal on the permits shall be made concurrently.

   c) A complete submittal shall consist of the following documents and information:

      1) A copy of the complete application pursuant to WAC 173-27-180;

      2) Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable SMP policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s) as established in WAC 173-27-140 through 173-27-170;

      3) The final decision of the City's Shoreline Administrator;

      4) The permit data sheet required by WAC 173-27-190; and

      5) Where applicable, the City's Shoreline Administrator shall also file the applicable documents required by RCW Chapter 43.21C, the State Environmental Policy Act (SEPA), or in lieu thereof, a statement summarizing the actions and dates of such actions taken under RCW Chapter 43.21C.

   d) When the project has been modified in the course of the City's process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

   e) Submittal of shoreline substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to subsections (c) and (d) of this Section have been received by Ecology. If Ecology determines that the submittal does not contain all of the documents and information required by this Section, Ecology shall identify the deficiencies and notify the City's Shoreline Administrator and the applicant in writing. Ecology will not act on a variance or conditional use permit submittal until the material requested in writing is submitted to Ecology.

   f) "Date of filing" of the City Shoreline Administrator's final decision involving approval or denial of a shoreline substantial development permit is the date of actual receipt by Ecology of the City Shoreline Administrator's final decision on the permit.

g) "Date of filing" involving approval or denial of a variance or conditional use permit, is the date of transmittal of Ecology's final decision on the variance or conditional use permit to the City's Shoreline Administrator and the applicant.

h) Ecology shall provide a written notice to the City's Shoreline Administrator and the applicant of the "date of filing."

i) Any decision on an application for a permit under the authority of this Section, whether it is an approval or a denial, shall be filed with Ecology and the Attorney General concurrently with the transmittal of the ruling to the applicant.

j) When a permit has been appealed pursuant to RCW 90.58.180, the City's Shoreline Administrator shall provide a copy of the final order to Ecology upon conclusion of all review proceedings. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the City's Shoreline Administrator, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan and the City's Shoreline Administrator shall reissue the permit accordingly and submit a copy of the reissued permit and supporting documents consistent with subsection (c) of this Section to Ecology for completion of the file on the permit. The purpose of this provision is to assure that the City and Ecology's files on the permit are complete and accurate and not to provide a new opportunity for appeal of the permit.

5. The effective date of a shoreline substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in RCW 90.58.140 subsections (B) and (C) do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

6. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

7. The City's Shoreline Administrator shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this Section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

K. Appeal to the State Shoreline Hearings Board

Any person aggrieved by the granting or denying of a shoreline substantial development permit, variance, or conditional use permit, 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 request for the same within twenty-one (21) days of receipt of the final order and by concurrently filing copies of such request with the City Clerk, Ecology and the

Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and WAC Chapter 461-08.

L. Enforcement and Penalties

The City's Shoreline Administrator and/or his designated representative shall enforce all provisions of this SMP. The enforcement procedures and penalties contained in WAC Chapter 173-27 and RCW Chapter 90.58 are hereby incorporated by reference.

M. Revisions to Permits

A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the SMP, and/or the policies and provisions of RCW Chapter 90.58. Changes, which are not substantive in effect, do not require approval of a revision. The enforcement procedures and penalties contained in WAC 173-27-100 are hereby incorporated by reference.

N. Master Program Review

The following guidelines are to be used for review of the SMP:

1. This SMP shall be reviewed periodically 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 document all project review actions in shoreline areas and to periodically evaluate the effectiveness of the SMP in achieving no net loss of shoreline ecological functions with respect to both permitting authorized developments and exemptions. This process may involve a joint effort by the City, state resource agencies, affected Indian tribes, and other parties.
3. As part of any required SMP 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 WAC Chapter 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
5. The City should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Related to the

constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, "*State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*," first published in February 1992.

O. Amendments to the Master Program

The following guidelines are to be used for any amendments to the SMP:

1. Any of the provisions of this SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and WAC Chapter 173-26. Any amendments shall also be subject to the procedures in Chapter 19.01 GBMC.
2. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

P. Severability

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

Q. 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 most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

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Chapter 7: Definitions

Accessory Use – A use incidental, related and clear subordinate to the principal use of a lot or main building. An accessory use is only located on the same lot as a permitted principal use.

Act – The SMA (RCW Chapter 90.58 and WAC Chapter 173-27).

Adoption by Rule – An official action by Ecology to make the City's SMP effective through rule consistent with the requirements of the Administrative Procedure Act, Chapter 34.05, thereby incorporating the adopted SMP or amendment into the state master program.

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in WAC 173-26-020.

Appurtenance – A building, structure, or development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

Archaeological Standards – Rules, regulations, or guidelines relating to the scientific study of material remains of past human life and activities.

Architectural Standards – Rules, regulations, or guidelines relating to the design, size, configuration, or location of buildings and structures including setbacks, height, and bulk restrictions. It may include other structural design or configuration conditions required as part of a variance or conditional use permit intended to improve the compatibility between adjacent buildings, structures, activities, or uses.

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. Refer to WAC 173-27-030(1).

Best Available Science – Current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through -925.

Berm – A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. In addition, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters.

Bog – A wet, spongy, poorly drained area, which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Bulkhead – Means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

Channel Migration Zone (CMZ) – The dynamic physical processes of rivers, including the movement of water, sediment and wood, cause the river channel in some areas to move laterally, or "migrate," over time. This is a natural process in response to gravity and topography and allows the river to release energy and distribute its sediment load. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone (CMZ) or the meander belt.

City – The City of Gold Bar.

Clean Water Act – The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

Clearing – The destruction, disturbance or removal of logs, scrub-shrub, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

Coastal Zone Management (CZM) Program – The federally approved Washington State Coastal Zone Management Program as required by the Coastal Zone Management Act of 1972, as amended. 16 U.S.C. § 1451 et seq.

Comprehensive Plan – Comprehensive plan means the document, including maps adopted by the City Council in accordance with applicable state law.

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

Critical Areas Ordinance 593 (2005), City of Gold Bar – This purpose of this ordinance is to protect the functions and values of ecologically sensitive areas while allowing for reasonable use of private property, through the application of best available science; implement the Growth Management Act (GMA) and the natural environment goals of the Comprehensive Plan; and protect the public from injury and loss due to slope failures, erosion, seismic events, volcanic eruptions, or flooding.

Cumulative Impact – The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions 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.

Development – A use consisting of the construction or exterior alteration of buildings or structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to RCW Chapter 90.58 at any state of water level (RCW 90.58.030(3)(d)).

Dredging – Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

Dwelling Unit – One or more rooms designed for or occupied by one family for sleeping and living purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. Includes apartments, hotel rooms available on a month-to-month basis with kitchen facilities, designated manufactured and group homes, but excludes recreational vehicles.

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.

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.

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 the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)).

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.

Environmental Impacts – Means the effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA). Refer to WAC 197-11-600 and WAC 197-11-444.

Environments, (Shoreline Environment) – Designations given 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.

Exemption – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the local SMP. Variances and/or conditional use permits may also still be required even though the activity does not need a shoreline substantial development permit (WAC 173-27-040). For a complete list of exemptions, see Chapter 6.

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

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.

Floodplain – Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream-derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area shall be determined by reference to the Flood Insurance Rate Maps (FIRMs) prepared by the Federal Emergency Management Agency (FEMA) or other official studies, maps, or reports that are determined to be reliable and accurate.

Floodway – Means the area as identified in a SMP that has been established in Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs). The floodway does not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under 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 clearing of trees, brush, scrubs or grass or excavating, filling, or leveling of surface contours.

Groin – A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift 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.

Height – Measured from average grade level to the highest point of a structure: provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation."

Historic Resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

Hydric Soils – Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-035).

Impervious Surface – The area of a lot that is covered by impervious surfaces, measured by percentage. Any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

In-Stream Structure – Means 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 the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

Interested Party – Synonymous with "party of record", all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified the City of their desire to receive a

copy of the final decision on a permit and who have provided an address for delivery of such notice by mail (WAC 173-27-030(12)).

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.

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 – "May" means the action is acceptable, provided it conforms to the provisions of this Chapter.

Mitigation or Mitigation Sequencing – The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

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 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.

Must – "Must," means a mandate; the action is required.

Native Vegetation – Vegetation comprised of plant species that are indigenous to an area.

Non-Conforming Use or Development – A shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

Normal Maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)). See also Normal Repair.

Normal Repair – To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement

which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

Ordinary High Water Mark (OHWM) – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Ecology: provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Off-Site Replacement – To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

On-Site Replacement – To replace wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted by a regulated activity.

Overwater Structure – Any device or structure projecting over the OHWM, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

Permit (or Shoreline Permit) – Any shoreline substantial development permit, variance, or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

Practicable Alternatives – Alternatives to the proposed project that will accomplish essentially the same objective as the original project while avoiding or having less adverse impacts.

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:

a. Comparatively high fish or wildlife density;

b. Comparatively high fish or wildlife species diversity;

c. Fish spawning habitat;

d. Important wildlife habitat;

e. Important fish or wildlife seasonal range;

f. Important fish or wildlife movement corridor;

g. Rearing and foraging habitat;

h. Important marine mammal haul-out;

i. Refugia habitat;

j. Limited availability;

k. High vulnerability to habitat alteration;

l. Unique or dependent species; or

m. 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). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of 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. Priority species are those that meet any of the four criteria listed below.

a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

b. Criterion 2. 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. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and non-native 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. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Properly Functioning Conditions (PFC) – Conditions that create and sustain natural habitat-affecting processes over the full range of environmental variation, and that support productivity at a viable population level of PTE species. PFC indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of PTE species.

Proposed, Threatened, and Endangered (PTE) Species – Those native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act.

Public Access – Public access is 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. Refer to 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 (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. Refer to WAC 332-30-106.

RCW – Revised Code of Washington.

RCW Chapter 90.58 – The SMA of 1971.

Recreational Facilities – 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:

a. Water-dependent (i.e. – moorage facilities, fishing piers, recreational floats); and

b. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping).

Residential Development – Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multi-family development and the creation of new residential lots through land division.

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

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.

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

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

Shall – "Shall," means a mandate; the action must be done.

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) of the OHWM of the Skykomish River, Wallace River, May Creek, and any associated wetlands.

Shoreline Administrator – As appointed by the Mayor, the City's Shoreline Administrator is charged with the responsibility of administering the SMP.

Shoreline Environment Designations – The categories of shorelines established by local SMPs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

Shoreline Jurisdiction – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within a specified City's authority under the SMA. In the City, the shoreline jurisdiction includes the Skykomish River, Wallace River, and May Creek, those areas within two hundred (200) of the OHWM of the Skykomish River, Wallace River, and May Creek and any associated wetlands. See definitions of Shorelines, Shorelines of the State, Shorelines of Statewide Significance, Shorelands, and Wetlands.

Shoreline Management Act (SMA) – RCW Chapter 90.58, as amended. Washington's SMA was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is 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, which are used by the City to administer and enforce the permit system for shoreline management. SMP 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 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 include other actions, such as clearing, grading, or application of chemicals.

Shoreline Permit – A shoreline substantial development permit, variance, conditional use permit, revision, or any combination thereof (WAC 173-27-030(13)).

Shoreline Stabilization – Actions taken to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind,

or wave action. These actions include structural measures such as bulkheads and non-structural methods such as soil bioengineering. New stabilization measures include enlargement of existing structures.

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

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 the City. See RCW 90.58.170 and RCW 90.58.180.

Shorelines of Statewide Significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. 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 – "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this SMP, against taking the action.

Sign – Any device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions; b) identifying or advertising any place, establishment, product, good or service.

Single-Family Residence – A detached dwelling designed for and occupied by one family including those buildings, structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2)(g)).

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

Stream – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty (20) cubic feet per second and b) the water is contained within a channel (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 (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 ($6,416.00),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 office of financial management every five years, beginning September 15, 2012, based upon changes in the consumer price index

during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials. A list of activities and developments that shall not be considered substantial development is provided in Chapter 8 (WAC 173-27-040(2)(a)).

Upland – Generally described as 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, Accessory – 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. Variances must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

Water-Dependent Use – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include 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 and serves as an all-encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses, which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores and gas stations.

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:

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

b. The use provides a necessary service supportive of the water-dependent 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.

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

Watershed Restoration Plan – A plan developed or sponsored by the Department of Fish and Wildlife, Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to RCW Chapter 43.21C, the State Environmental Policy Act.

Weir – A low dam built across a stream to raise its level, divert its flow, and/or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have negative impacts depending on how they are constructed, e.g., detrimental effects on fish habitat conditions.

Wetlands – "Wetlands" or "wetland areas" means 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. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Appendix 1: Communication

February 9, 2010

Project: City of Gold Bar Shoreline Master Program Update, Our File No. 209372.30
Subject: City of Gold Bar, Shoreline Inventory and Assessment,
Request for Existing Information: Skykomish River, Wallace River, and May Creek

Dear Stakeholders:

The City of Gold Bar is in the early stages of examining its Skykomish River, Wallace River, and May Creek Shorelines for the purposes of updating its Shoreline Master Program per requirements of the Washington State Department of Ecology. AHBL, Inc. and Otak, Inc. will assist with Shoreline characterization, analysis, and regulatory review. A Shoreline inventory, conducted by biologists from Otak, Inc., will be the first step. The products of the inventory include a map portfolio and a report characterizing ecological functions and ecosystem-wide processes, among other things.

The City is requesting your help in obtaining all existing physical and biological information regarding Skykomish River, Wallace River, and May Creek, their associated riparian and wetland areas, and other water relevant watershed or basin information. We are interested in any and all inventories, assessments, water quality analyses, and/or fish and wildlife distribution and habitat information. A map identifying the City's Shorelines is attached.

We are hoping to assemble our inventory by February 26, 2010 in order to complete the necessary characterization and analysis, and resultant recommendations, in a timely manner. Because we are hoping to reduce redundant data collection at the field level, a response would be appreciated by February 19, 2010. If possible, please provide hard copies or electronic files of any studies instead of a list of citations; contact us if a copy fee is required. If you believe that another individual within your organization would be a more appropriate contact for this solicitation, please forward this letter to that individual, and notify us of the change in contact.

If you have any questions or need additional information, please feel free to telephone me at (253) 383-2422, e-mail me at bmedrud@ahbl.com or contact John Light, the Public Works Director, City of Gold Bar at either (360) 793-1101 or j.light@cityofgoldbar.us.

Sincerely,

Brad Medrud
Senior Planning Project Manager

BM/lah

c: John Light, City of Gold Bar

Enclosure

City of Gold Bar Shoreline Master Program Update

Open House and Visioning Workshop

January 11, 2011
7:00 to 9:00 PM

Gold Bar City Hall
Council Chambers
107 5th Street
Gold Bar, WA 98251

The intent of open house and visioning workshop is to present the work we have done to date on the Shoreline Master Program update, listen and respond to your comments, questions and concerns and talk about your vision for the future of the City's shorelines. The updated Shoreline Master Program will guide and regulate the future development of the shorelines of the Skykomish River, Wallace River and May Creek within the City of Gold Bar.

Your attendance and comments would be greatly appreciated. If you are unable to attend the open house, want additional information, or would like to comment or ask questions, please go to the City's Shoreline Master Program webpage at:

http://www.cityofgoldbar.us/Planning_Commission.html

Or contact:

John Light, City of Gold Bar Public Works Director at (360) 793-1101
E-mail: j.light@cityofgoldbar.us

Brad Medrud, AHBL, Inc. the consultant assisting City with the SMP update at (253) 383-2422
E-mail: bmedrud@ahbl.com

Mailing List:

PUD
ATTN: SEPA REVIEWER
120 E. FREMONT STREET
Monroe, WA 98272

SULTAN LIBRARY
Attn: SEPA Reviewer, Public Info
515 Main Street
Sultan, WA 98294

SNO-PAC 911 EMERGENCY
1121 S.E. Everett Mall Way
Suite 200
Everett, WA 98208-2832

F.E.M.A
Federal Regional Center
Attn: SEPA Reviewer
130-228th St. S.W.
Everett, WA 98201-9796

COMMUNITY TRANSIT
Attn: Brent Russell/SEPA Reviewer
7100 Hardeson Road
Everett, WA 98203-5834

SNOHOMISH COUNTY HEALTH
Attn: SEPA Reviewer
3020 Rucker Ave
Everett, WA 98201

SULTAN SCHOOL DISTRICT
Attn: Jerry Alles/SEPA Reviewer
PO BOX 399
Sultan, WA 98294

SNOHOMISH COUNTY EDC
Deborah K. Knutson
728 134th St. S.W. Suite 219
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ATTN: DOUG THOMPSON
WSDOT-NW REGION
15700 Dayton Avenue North
PO BOX 330310
Seattle, WA 98133-9710

CORPS OF ENGINEERS-SEATTLE
Attn: SEPA Reviewer
PO Box 3755
Seattle, WA 98124-2255

SNOHOMISH COUNTY PDS
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Bellevue, WA 98009-0868

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Everett, WA 98206-1107

GTE
C/O GARY NELSON
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Everett, WA 98204

DEPARTMENT OF ECOLOGY
Environmental Reviewer
300 Desmond Drive
Olympia, WA 98504-7600

TULALIP TRIBES
Planning Committee
6700 Beach Drive
Marysville, WA 98270

SNO LAND CONSERVANCY
ATT: CJ EBERT
2911 ½ Hewitt
Everett, WA 98201

GROWTH MANAGEMENT SERVICES
Dept. of CTED
PO Box 42525
Olympia, WA 98504-8350

WASHINGTON STATE PARKS
Headquarters
7150 Cleanwater Lane
PO Box 42650
Olympia, WA 98504-2650

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Appendix 2: Maps

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Appendix 3: Critical Areas Ordinance

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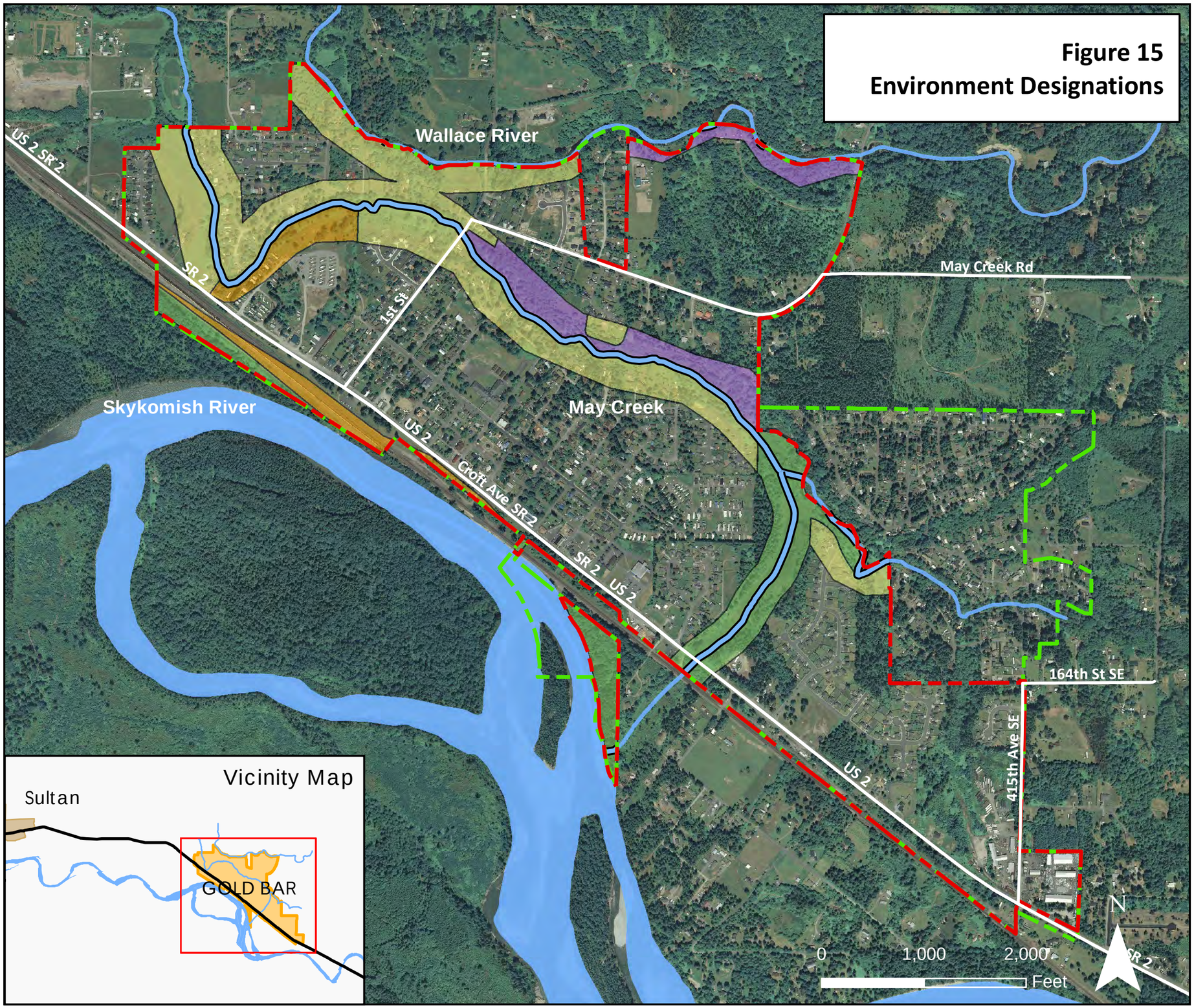
Figure 15
Environment Designations

City of Gold Bar

Shoreline Master Program
Skykomish River
Wallace River
May Creek



Legend

- Gold Bar City Limits
- Gold Bar UGA
- Rivers/Creeks
- High Intensity
- Natural
- Shoreline Residential
- Urban Conservancy
- Aquatic

*SMA Boundary based on the definition of "shorelines" found in RCW 90.58.030. More detailed information provided in the City's Inventory and Characterization Report.

Shoreline Jurisdiction Boundaries on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown. No warranties of any sort, including but not limited to accuracy, fitness, or merchantability, accompany this product.

Aerial Photo: 2007
Data Sources: Snohomish County GIS October 2009 and SMP Boundary derived by AHBL from existing data sources.

City of Gold Bar
Critical Areas Ordinance Update

ORDINANCE NO. 593
Appendix A

Adopted by the Gold Bar City Council
MARCH 15, 2005

Colleen Hawkins, Mayor (2003-2005)
Councilmembers:
Paul Price — Lonn Turner
Debra Hunt — Chris Minder
Robert Amenn

Prepared Under the Guidance of the
Gold Bar Planning Commission

Richard Norris, Chairman
Kelly Broyles — Susan Forbes
Lonn Turner — Kris Carroll
Colleen Hawkins — Gail Kogut
Cindy Reddekopp — Joe Loo

City of Gold Bar Staff

Hester Gilleland, City Clerk
January Sadler, Deputy Clerk
John Light, Public Works Director

City of Gold Bar
107 5th Street
Gold Bar, Washington 98251

Consultants

BERRYMAN & HENIGAR, INC.
Paul Inghram, AICP
Nancy Eklund, AICP

Table of Contents

Section 1 Findings of Fact and Purpose

1.1 Findings of Fact

The City of Gold Bar hereby finds that:

A. Critical areas and their buffers are valuable and fragile natural resources with significant development constraints due to flooding, erosion, septic disposal limitations, and land slide hazard.

B. The State of Washington has enacted a Growth Management Act (RCW 36.70A), and under this Act the City of Gold Bar is adopting regulations protecting critical areas, including wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

   1. RCW 36.70A.170 requires the designation of critical areas.

   2. RCW 36.70A.172 requires local governments to give special consideration to the conservation and protection measures necessary to preserve or enhance anadromous fisheries.

C. In their natural state, wetlands provide many valuable social and ecological services, including:

   1. Controlling flooding and stormwater runoff by storing or regulating natural flows;

   2. Protecting water resources by filtering out water pollutants, processing biological and chemical oxygen demand, recycling and storing nutrients, and serving as settling basins for naturally occurring sedimentation;

   3. Providing areas for surface water recharge;

   4. Preventing shoreline erosion by stabilizing the substrate;

   5. Providing habitat areas for many species of fish, wildlife, and vegetation, many of which are dependent on wetlands for their survival, and many of which are on Washington State and Federal Endangered Species lists;

   6. Providing open space and visual relief from intense development in urbanized area;

   7. Providing recreation opportunities; and

   8. Serving as areas for scientific study and natural resource education.

D. Frequently flooded and geologically hazardous areas shall be preserved in order to protect public and private resources and facilities from injury, loss of life, and property or financial damage due to flooding, erosion, landslides, or steep slope failure.

E. Development in critical areas can result in:

1. Increased soil erosion and sedimentation of downstream water bodies;

2. Increased shoreline erosion;

3. Degraded water quality due to increased turbidity and loss of pollutant removal processes;

4. Elimination or degradation of wildlife and fisheries habitat;

5. Loss of fishery resources from water quality degradation, increased peak flow rates, decreased summer low flows, and changes in the stream flow regimen.

6. Loss of stormwater retention capacity and slow release detention resulting in flooding, degraded water quality, and changes in the stream flow regimen of watersheds;

7. Loss of groundwater recharge areas;

8. Loss of slope and soil stability caused by the removal of trees, shrubs, and root systems of vegetative cover on steep slopes.

F. Buffer areas and building setbacks (if required) surrounding critical areas are essential to maintenance and protection of some critical areas functions and values. Buffer areas protect critical areas from degradation by:

1. Stabilizing soil and preventing erosion;

2. Filtering suspended solids, nutrients and harmful or toxic substances;

3. Moderating impacts of stormwater runoff;

4. Moderating system microclimate;

5. Protecting wetland wildlife habitat from adverse impacts;

6. Maintaining and enhancing habitat diversity and/or integrity;

7. Supporting and protecting wetlands plant and animal species and biotic communities;

8. Reducing disturbances to wetland resources caused by intrusion of humans and domestic animals;

9. Protecting steep slopes from erosion and landslides.

G. The City of Gold Bar is experiencing increased development pressure and resulting natural system changes, and must plan for protection of its natural resources. It is therefore the policy of the City of Gold Bar to ensure protection for critical areas by limiting development activities in wetlands, 100-year flood plains, slopes of 40% or greater; and discouraging development activities within critical areas buffers.

H. Protection standards for one critical area often provide protection for one or more other critical areas. In determining what particular degree of protection critical areas are to be

afforded, the City has evaluated a wide range of the best science available with respect to the critical areas to make informed decisions that meet the intent of the Growth Management Act and that are also reflective of local needs.

I. Critical areas may also be protected by other actions by the City, such as stormwater management standards, critical area restoration, and public education; and from other regulations, such as the Forest Practices Act, the Shoreline Management Act, and the State Environmental Policy Act.

J. The U.S. Constitution prohibits the taking of private property without just compensation.

1.2 Purpose

The purpose of this Ordinance is to designate and protect ecologically sensitive and hazardous areas in accordance with the Growth Management Act, while also allowing for reasonable use of private property. It is the policy of the City of Gold Bar to require site planning to prevent and minimize damage to critical areas, and to establish criteria to balance the rights of property owners with the preservation of critical areas.

In addition, it is the intent of the City of Gold Bar that activities in or affecting critical areas not threaten public safety, cause nuisances, or destroy or degrade critical areas by:

A. Impeding flood flows, reducing flood storage capacity, or impairing natural flood control functions, thereby resulting in increased flood heights, frequencies, or velocities on other lands;

B. Increasing water pollution through location of domestic waste disposal systems or livestock in wetlands; unauthorized application of pesticides and herbicides, disposal of solid waste at inappropriate sites; creation of unstable fills; or the destruction of wetland soils and vegetation;

C. Increasing erosion and landslide hazard;

D. Decreasing breeding, nesting, and feeding areas for rare and endangered species of wildlife;

E. Interfering with the exchange of nutrients needed by fish and other forms of wildlife;

F. Decreasing habitat for fish and other forms of wildlife;

G. Adversely altering the recharge or discharge functions of wetlands, thereby impacting groundwater or surface water supplies;

H. Significantly altering wetland hydrology and thereby causing either short or long-term changes in vegetative composition, soils characteristics, nutrient cycling, or water chemistry;

I. Destroying sites needed for education or scientific research, such as outdoor biophysical laboratories, living classrooms, and training areas;

J. Interfering with public rights for passive recreational opportunities provided by wetlands such as bird watching, photography, hiking and similar uses;

K. Destroying or damaging property values.

The purpose of this ordinance is to protect the public health, safety, and welfare by preventing the adverse environmental impacts of development enumerated in Section I of this ordinance by:

1. Preserving and protecting critical areas by regulating development within them and their buffers;

2. Protecting the public against losses from:

    a. Unnecessary maintenance and replacement of public facilities,

    b. Publicly funded mitigation of avoidable impacts;

    c. Cost for public emergency rescue and relief operations; and

    d. Potential litigation resulting from construction practices.;

3. Alerting appraisers, assessors, owners, and potential buyers or lessees to the development limitations of properties on which critical areas or required buffer areas are located.

4. Providing City of Gold Bar officials with information to evaluate, approve, condition, or deny public or private development proposals.

Section 2 Definitions

For the purposes of this ordinance, the following definitions shall apply:

Alteration - Any human induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation or any other activity that changes the character of the critical area.

Anadromous fish - Fish that spawn and rear in freshwater and mature in the marine environment.

Applicant - A person who files an application for permit under this ordinance and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized of such a person.

Aquifer - A geological formation, group of formations or part of formation that is capable of yielding a significant amount of water to a well or spring.

Aquifer recharge areas - Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Aquifer susceptibility - 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.

Best available science - Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925.

Best management practices - Conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waster, toxins, and sediment; and

2. Minimize adverse impacts to surface and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

3. Protect trees and vegetation designated to be retained during and following site construction; and

4. Provide standards for proper use of chemical herbicides within critical areas.

The City shall monitor the application of best management practices to ensure that the standards and policies of this Ordinance are adhered to.

Buffer or buffer zone - An area contiguous to and protects a critical area that is required for the continued maintenance, functioning, and/or structural stability of a critical area.

Channel migration zone (CMZ) - The lateral extent of likely movement along a stream or river during the next one hundred years as determined by evidence of active stream channel movement over the past one hundred (100) years. Areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ.

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. (Oak Harbor)

Critical aquifer recharge area - Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

Critical areas - Critical areas include any of the following areas or ecosystems: Aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in RCW 36.70A and this Ordinance.

Critical facility - A facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use or store hazardous materials or hazardous waste.

Critical habitat - Habitat necessary for the survival of endangered, threatened, rare, or sensitive species.

Critical species - All animal and plant species listed by the state or federal government as threatened or endangered.

Cumulative impacts or effects - The combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

Developable area - An area of land outside of critical areas and their buffers.

Department - The administration of the City of Gold Bar.

Development activity - Any construction, development, earth movement, clearing or any other site disturbance. Development includes approvals issued by the City that binds land to specific patterns of use, including but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

1. Interior building improvements.

2. Exterior structure maintenance activities, including painting and roofing.

3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding.

4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.

Erosion - The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Erosion hazard areas - Those areas containing soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion,

Exotic - Any species of plants or animals that are foreign to the planning area.

Existing and ongoing agriculture - Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops or livestock, for example, the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is, converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity. Forest practices are not included in this definition.

Fish and wildlife habitat conservation areas - Areas necessary for maintaining fish and wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as defined by WAC 365-190-080(5).

Fish habitat - Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

Floodway - Tthe channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Frequently flooded areas - Lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, the floodplains of streams, rivers, ponds and lakes.

Functions, beneficial functions, or functions and values - The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, sediment transport and deposition, sediment removal and filtration, microclimate and temperature regulation, flood storage, conveyance and attenuation,

groundwater recharge and discharge, erosion control, landslide control, and recreational opportunities. These beneficial roles are not listed in order of priority.

Geologically hazardous areas - Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting residential, commercial, or industrial development consistent with public health or safety concerns. Geologically hazardous areas include, but are not limited to, "landslide hazard areas", "steep slopes", and "erosion hazard areas".

Geotechnical report or geotechnical analysis - A scientific study or evaluation conducted by a qualified expert that includes a description of the site hydrology and geology, the affected land form and its susceptibility to mass wasting, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site specific and cumulative impacts of the proposed development including the potential adverse impacts to adjacent and downstream material resource. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local geology.

Ground water - Water in a saturated zone or stratum beneath the surface of land or a surface water body.

Ground water management area - A specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a ground water management program is required.

Ground water management program - 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.

Growth Management Act - RCW 36.70A,and 36.70B, as amended.

Habitat conservation areas - Areas designated as fish and wildlife habitat conservation areas.

Hazard areas - Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

Hazardous substances - Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

High intensity land use - Land uses which are associated with moderate or high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, medium and high density residential single-family residential using septic systems, multi-family residential, active recreation, and commercial and industrial land uses.

Hydric soil - A soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be

determined by the following methods described in the 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands".

Hydrophytic vegetation - Macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands".

Impervious surface - A hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

In-kind compensation - To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category."

Isolated wetlands - Those regulated wetlands which:

1. Are outside of and not contiguous to any 100-year floodplain or a lake, river, or stream; and

2. Have no contiguous hydric soils or hydrophytic vegetation between the wetland and any surface water.

Injection well(s)

1. **Class I** - A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one quarter (1/4) mile of the well bore, an underground source of drinking water.

2. **Class II** - A well used to inject fluids:

    a. Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

    b. For enhanced recovery of oil or natural gas; or

    c. For storage of hydrocarbons that are liquid at standard temperature and pressure.

3. **Class III** - A well used for extraction of minerals, including but not limited to the injection of fluids for:

    a. In-situ production of uranium or other metals that have not been conventionally mined;

    b. Mining of sulfur by Frasch process; or

c. Solution mining of salts or potash.

4. **Class IV** - A well used to inject dangerous or radioactive waste fluids.

5. **Class V** - All injection wells not included in Classes I, II, III, or IV.

Inter-rill - Inter-rills are areas subject to sheetwash.

Landslide hazard areas - Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Low intensity land use - Land uses which area associated with low levels of human disturbance or low wetland habitat impacts, including, but not limited to, low density single-family residential with adequate sewer and stormwater retention/detention/biofiltration facilities, passive recreation, open space, or forest management land uses.

Mine hazard areas - Areas that are underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

Mitigation - The process of avoiding, reducing or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence priority. Measure (1) shall be applied first and subsequent measures applied only after higher priority measures are demonstrated to be not feasible or applicable.

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 the appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating or restoring the effected 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 and environments; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Monitoring - Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems and assessing the performance of required mitigation measures throughout the collection and analysis of data by *various methods for* the purpose of

understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

Native vegetation - Plant species which are indigenous to the area of question.

Ordinary High Water Mark (OHWM) - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Washington State Department of Ecology, provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water. [See RCW 90.58.030(2)(b) or its successor and WAC 173-22-030(l 1) or its successor].

Out-of-kind compensation - To replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. It does not refer to replacement "out-of-category."

Permeability - The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Porous soil types - Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices or other openings which allow the passing of water.

Potable water - Water that is safe and palatable for human use.

Practicable alternative - An alternative that is available and capable of being carried out after taking into consideration, cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas.

Primary association area - The area used on a regular basis by, or is in close association with, or is necessary the proper functioning of the habitat of a specific species. Regular basis means that the habitat area is normally, or usually known to contain a critical species, or based on known habitat requirements of the species, the area is likely to contain the species. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

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

- Comparatively high fish and wildlife density;
- Comparatively high fish and wildlife species diversity;
- Important fish and wildlife breeding habitat;
- Important fish and wildlife seasonal ranges;
- Important fish and wildlife movement corridors;
- Limited availability;
- High vulnerability to habitat alteration; or
- Unique or dependent species.

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, eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as, consolidated marine/estuarine shorelines, 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 habitats are listed by the state Department of Fish and Wildlife.

Priority species - Fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation. Priority species are those that meet any of the criteria listed below.

- Criterion 1: State-listed or state candidate species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12011), or sensitive (WAC 232-12-011). State candidate species are those fish and wildlife species that will be reviewed by the department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12297. Federal candidate species are evaluated individually to determine their status in Washington and whether inclusion as a priority species is justified.
- Criterion 2: Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron rookeries, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.
- Criterion 3: 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.
- Criterion 4: Species listed under the Endangered Species Act as either threatened or endangered.

Qualified professional - *A* person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and a minimum of two years of related work experience.

1. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

2. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

3. A qualified professional for critical aquifer recharge areas must be a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Repair or maintenance - An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition.

Activities that change the character, size, or scope of a project beyond the original design, drain, dredge, fill, flood, or otherwise alter additional wetlands are not included in this definition.

Riparian habitat - Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

River - See "Watercourse."

Salmonid fish use - Those waters used by salmonid or anadromous fish for spawning, rearing or migration. If salmonid fish use has not been determined, salmonid fish use shall be presumed for waters having the following characteristics:

1. Stream segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient of 16 percent or less.

2. Stream segments having a defined channel or 2 feet or greater within the bankfull, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size in, based on hydrographic boundaries;

3. Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

4. Ponds of impoundments having a surface area greater than 0.5 acre at seasonal low water.

The City may waive or modify the characteristics of this definition where:

1. Waters have confirmed, long term, naturally occurring conditions that make them incapable of supporting fish; or

2. Sufficient information is available to support a departure from the characteristics of this subsection, as determined in consultation with the Department of Fish and Wildlife, affected tribes and interested parties.

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

SEPA - Washington State Environmental Policy Act, Chapter 43.21C RCW.

Serviceable - Presently usable.

Shorelines - All of the water areas of the state, including reservoirs and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide

significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of state-wide significance - Those areas defined within the City of Gold Bar's Shoreline Master Program.

Shorelands or Shoreland areas - Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of the Washington State Shorelines Management Act of 1971.

Soil bio-engineering techniques - An applied science that combines structure, biological, and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation, and flooding, using live plant materials as a main structural component.

Special protection areas - Aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

1. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

2. Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and

3. Sole source aquifer status.

Species - Any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

Species, endangered - Any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species of local importance - Those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

Species, priority - Any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

Species, threatened - Any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Steep slopes - Slopes of 40% or greater. A 40% slope is defined as any ground that rises at an inclination of 40% or more within a vertical elevation change of at least 10 feet (a vertical rise of ten feet for every twenty-five feet. of horizontal distance). A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief. The "toe" of a slope is a distinct topographical break in slope which separates slopes inclined less than 40% from slopes equal to or in excess of 40%. Where no distinct break exists, the toe of a steep slope is the lower most limit of the area where the ground surface drops ten feet vertically within a horizontal distance of twenty-five feet. The "top" of a slope is a distinct, topographical break in slope which separates slopes inclined at less than 40% from slopes equal to or in excess of 40%. Where no distinct break in slope exists, the top of the slope shall be the uppermost limit of the area where the ground surface drops at least 10 feet vertically within a horizontal distance of twenty-five feet.

Storm water - Surface water runoff collected and transported by a managed system.

Stream - See "Watercourse."

Sub-drainage basin or ***subbasin*** - The drainage area of the highest order stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

Substantially degrade - To cause damage or harm to an area's natural ecological functions. An action is considered to substantially degrade the environment if: The damaged ecological function or functions affect other related functions or the liability of the larger ecosystem; or The damage is not reversed or self-correcting through natural means within approximately two years; or There is the threat, as determined by best available science, that the degrading action could cause significant damage to shoreline ecological functions under foreseeable conditions; or There is the threat that the action could contribute to damaging ecological functions as part of cumulative impacts from similar permitted activities on nearby shorelines.

Unavoidable and necessary impacts - Impacts to critical areas that remain after a person proposing to alter critical areas has demonstrated that no practicable alternative exist to the proposed project.

Vulnerability - The combined effect of susceptibility to contamination and the presence of potential contaminants.

Water dependent - A use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water by reason of the intrinsic nature of its operations. A use that can be carried out only on, in, or adjacent to water. Examples of water dependent uses include ship cargo terminal loading areas; fishing; ferry and passenger terminals; barge loading, ship building, and dry docking facilities; marinas, moorage, and boat launching facilities; aquaculture; float plane operations; surface water intake; and sanitary sewer and storm drain outfalls.

Water table - 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.

Water Typing System - Waters classified according to WAC 222-16-031 as follows:

1. **Type 1 Water** - All waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, but not including those waters' associated wetlands as defined in Chapter 90.58 RCW.

2. **Type 2 Water** - Segments of watercourses that are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of watercourses and periodically inundated areas of their associated wetlands, which:

    a. Are diverted for domestic use by more than one hundred (100) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department of Natural Resources to be a valid appropriation of water and only considered Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty percent (50%), or whichever is less;

    b. Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality.

    c. Are within a federal, state, local or private campground having more than thirty (30) camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within one hundred (100) feet of a camping unit.

    d. Are used by fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

        i. Stream segments having a defined channel twenty (20) feet or greater within the bankfull width and having a gradient of less than four percent (4%).
        ii. Lakes, ponds, or impoundments having a surface area of one (1) acre or greater at seasonal low water; or

    e. Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

        i. The site must be connected to a fish bearing stream and be accessible during some period of the year; and
        ii. The off-channel water must be accessible to fish through a drainage with less than a five percent (5%) gradient.

3. **Type 3 Water** - Segments of watercourses that are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife, and human use. These are segments of watercourses and periodically inundated areas of their associated wetlands which:

a. Are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department of Natural Resources to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty percent (50%), whichever is less;

b. Are used by fish for spawning, rearing or migration.

4. **Type 4 Water** - All segments of watercourses within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type 4 Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see State Forest Practices Board Manual, Section 23), then Type 4 Waters begin at a point along the channel where the contributing basin area is at least fifty two (52) acres.

5. **Type 5 Waters** - All segments of watercourses within the bankfull width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water. Type 5 Waters must be physically connected by an above-ground channel system to Type 1, 2, 3, or 4 Waters.

Watercourse - Any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. The is includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

Well - A bored, drilled or driven shaft, or a dug hole whose depth is greater that the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

Wellhead protection area (WHPA) - The portion of a zone of contribution for a well, wellfield or spring, as defined using criteria established by the state Department of Ecology.

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

Wetland edge - The boundary of a wetland as delineated based on the definitions contained in this ordinance.

Section 3 General Provisions

3.1 Abrogation and Greater Restriction

It is not intended that this ordinance repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

3.2 Interpretation

The provisions of this ordinance shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this ordinance.

3.3 Severability

If any clause, sentence, paragraph, section or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confirmed in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

3.4 Fees.

A. By resolution, fees shall be establish for critical areas review and other services provided by the City as required by this Ordinance.

B. Unless otherwise indicated in this Ordinance, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

3.5 Applicability

A. This ordinance applies to all development activities not expressly exempted from this ordinance, whether or not a permit or authorization is required. Compliance with the requirements of this ordinance is required prior to City approval of, or issuance of permit for any regulated activity in the City of Gold Bar. The Public Works Director or his/her designee shall be responsible for reviewing compliance with this ordinance, unless otherwise specified. If a development activity does not require a separate City of Gold Bar permit, the applicant shall request a critical areas review from the City of Gold Bar. The Public Works Director or his/her designee shall issue permits or authorize activities only upon a finding that the proposed regulated activity complies with all applicable provisions of this ordinance. No regulated activity may be conducted without the prior approval of the City of Gold Bar.

B. Nothing in this ordinance shall be construed to excuse compliance with any federal, state, or local statute, ordinance or regulation applicable to the subject property or to the development activity, including the rules promulgated under the authority of this chapter.

C. When any provision of any other ordinance of the City of Gold Bar conflicts with this ordinance, that which provides more protection to critical areas and their buffers shall apply unless specifically provided otherwise in this ordinance.

3.6 Maps and Inventory

The Gold Bar critical areas maps have been constructed using existing data from FEMA, the national wetlands inventory, Snohomish County, and other sources. This delineation is for general reference purposes only and shall not be used to determine whether a parcel of land has or has not existing critical areas within its boundaries. All determinations of critical area boundaries shall be made pursuant this ordinance.

The City of Gold Bar has several significant stream and wetland systems that are identified and rated below:

A. The Wallace River is a Type I Stream inventoried under the City of Gold Bar's Master Shorelines Program,

B. The Skykomish River is a Type I Stream inventoried under the City of Gold Bar's Master Shorelines Program and is listed as a Shoreline of Statewide Significance,

C. May Creek is a Type II Stream inventoried under the City of Gold Bar's Master Shorelines Program,

3.7 Allowed Activities

The following uses shall be allowed within a critical area or critical area buffer without critical areas review, provided that they are non-polluting, not substantially degrading, are not prohibited by any other ordinance or law, and they are conducted using best management practices. The City may apply conditions to the underlying permit or approval, such as a building permit, to ensure that the proposal is consistent with the provisions of this Ordinance to protect critical areas.

A. **Emergencies.** Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Ordinance.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the City within one (1) working day following commencement of the emergency activity. Within thirty (30) days, the Public Works Director shall determine if the action taken was within the scope of the emergency actions allowed in this Subsection. If the City determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of *Enforcement, Section 10.2* shall apply.

After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency

undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the City in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one (1) year of the date of the emergency, and completed in a timely manner;

B. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;

C. Outdoor recreational activities, including fishing, bird watching, hiking, non-motorized boating, swimming and other similar non-polluting passive activities;

D. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil planting of crops, or alteration of the wetland by changing existing topography, water conditions, or water sources;

E. Existing and ongoing agricultural activities including farming, horticulture, aquaculture, and irrigation. Activities on areas lying fallow as part of a conventional rotational cycle are part of an ongoing operation. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations.

F. The maintenance or modification of irrigation and drainage ditches, grass-lined swales, canals, storm water management facilities, farm ponds, and landscape amenities in existence prior to the adoption of this ordinance.

G. Education, scientific research, and use of nature trails;

H. Boundary markers;

I. Site investigative work necessary for land use application submittals such as surveys, soil logs, and other related activities. In every case, critical areas impacts shall be minimized and disturbed areas shall be immediately restored;

J. The following uses are allowed within critical areas and/or critical area buffers provided that written notice at least 30 days prior to the commencement of such work has been given to the City of Gold Bar, written approval from the City has been attained, and provided that impacts are minimized and that disturbed areas are immediately restored;

1. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area and does not include the construction of a maintenance road,

2. Minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions, and

3. Flood control measures may be taken to protect property from damage due to upstream development as allowed by the U.S. Army Corps of Engineers.

4. Removal of dead and/or dying trees or vegetation that may pose potential risk to the public or subject property.

K. **Permit requests subsequent to previous critical area review.** Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

1. The provisions of this Ordinance have been previously addressed as part of another approval;

2. There have been no material changes in the potential impact to the critical area or buffer since the prior review;

3. There is no new information available that is applicable to any critical area review of the site or particular critical area;

4. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

5. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

L. **Public and private pedestrian trails.** Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

1. The trail surface shall meet all other requirements including water quality standards set forth in the storm water management regulations;

2. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

3. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report;

M. **Forest practices.** Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Ordinance 222 WAC, and those that are exempt from City's jurisdiction, provided that forest practice conversions are not exempt.

Section 4 Critical Areas Project Review

4.1 Critical Area Review Process

A. **Pre-application consultation.** Any person preparing to submit an application for development or use of land where the proposal is located within or adjacent to a critical areas or its buffer, or is likely to impact a critical area, shall conduct a consultation meeting with the Public Works Director or his/her designee prior to submitting an application for development or other approval. At this meeting, the Public Works Director or his/her designee shall discuss the requirements of this Ordinance; provide available critical area maps, scientific information, and other materials; outline the review process; and, work with the applicant to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

B. **Initial review.** Following submittal of an application for development or use of land, the Public Works Director or his/her designee shall review the application, site conditions, and other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal.

C. **Site inspection.** The property owner shall provide the City with reasonable access to the site for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

D. **Critical area report required.** If the information available indicates that the project area is within or adjacent to a critical area or buffer, or that the proposed activity is likely to degrade a critical area, then the applicant shall be required to submit a critical area report prior to further review of the project.

4.2 Review criteria

A. Any permit or approval that includes an alteration to a critical area or its buffer, unless otherwise provided for in this Ordinance, may be approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

1. The proposal minimizes the impact on critical areas in accordance with *Mitigation sequencing*, Section 4.7;

2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

3. The proposal is consistent with the general purposes of this Ordinance and the public interest;

4. Any alterations permitted to the critical area are mitigated in accordance with *Critical areas mitigation requirements,* Section 4.6;

5. The proposal protects the critical area functions and values consistent with the best available science; and

6. The proposal is consistent with other applicable regulations and standards. A favorable critical areas review should not be construed as endorsement or approval of any underlying permit or approval.

B. The City may condition the underlying permit or approval as necessary to mitigate impacts to critical areas and to conform to the standards required by this Ordinance. Any conditions of approval shall be attached to the underlying permit or approval.

C. The applicant has the burden of proving that a proposal complies with the standards set forth in this Ordinance.

4.3 Completion of the critical area review

The City's determination regarding critical areas pursuant to this Ordinance shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

4.4 Appeals

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this Ordinance may be appealed according to, and as part of, the appeal procedure for the permit or approval involved.

4.5 Critical area report

A. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas. The critical area report shall be prepared by a qualified professional.

B. At a minimum, the report shall contain the following:

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

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

4. Identification and characterization of all critical areas, water bodies, and buffers adjacent to the proposed project area;

5. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

6. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

7. An analysis of site development alternatives;

8. A description of reasonable efforts made to avoid, minimize, and mitigate impacts to critical areas consistent with *Mitigation sequencing,* Section 4.7;

9. Plans for adequate mitigation, as needed, to offset any impacts;

10. A discussion of the performance standards applicable to the critical area and proposed activity;

11. Financial guarantees to ensure compliance; and

12. Any additional information required for the critical area as specified in the corresponding chapter.

C. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the City.

D. The following areas shall be addressed in a critical area report:

1. The project area of the proposed activity; and

2. All geologically hazardous areas within two hundred (200) feet of the project area or that have potential to be affected by the proposal;

3. All wetlands and recommended buffers within three hundred (300) feet of the project area; and

4. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within three hundred (300) feet of the project area.

5. All habitat conservation areas and recommended buffers within three hundred (300) feet of the project area; and

E. The required geographic area of the critical area report may be limited as appropriate if:

1. The applicant, with assistance from the City, cannot obtain permission to access properties adjacent to the project area; or

2. The proposed activity will affect only a limited part of the subject site.

F. The City may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this Ordinance.

4.6 Critical Areas Mitigation Requirements

A. Unless otherwise provided in this Ordinance, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved critical area report.

B. Mitigation shall be sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

C. Mitigation shall not be implemented until after City review of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

D. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to fish, wildlife and flora.

E. The City may authorize a one-time temporary delay, up to one-hundred-twenty (120) days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the City, and include a financial guarantee.

4.7 Mitigation Sequencing

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

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, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

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

F. Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

G. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures.

4.8 Mitigation Plan Requirements

When mitigation is required, the applicant shall submit for approval by City a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. **Environmental goals and objectives.** The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

3. An analysis of the likelihood of success of the compensation project.

B. **Performance standards.** The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Ordinance have been met.

C. **Detailed construction plans.** The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

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

2. Grading and excavation details;

3. Erosion and sediment control features;

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

5. Measures to protect and maintain plants until established.

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

D. **Monitoring program.** The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5 and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions

of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

E. **Contingency plan.** The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. **Financial guarantees.** The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with *Bonds to ensure mitigation, maintenance, and monitoring,* Section 4.10.

4.9 Acting on the Application

The following conditions shall apply to use permits:

A. **Native growth protection areas**

1. Unless otherwise required in this Ordinance, native growth protection areas (NGPA) shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:

   a. All landslide hazard areas and buffers;

   b. All wetlands and buffers;

   c. All habitat conservation areas; and

   d. All other lands to be protected from alterations as conditioned by project approval.

2. Native growth protection areas shall be recorded on all documents of title of record for all affected lots.

3. Native growth protection areas shall be designated on the face of the plat or recorded drawing in a format approved by the City attorney. The designation shall include the following restrictions:

   a. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

   b. The right of the City to enforce the terms of the restriction.

4. Native growth protection areas are an integral part of the lot in which they are created, are not intended for sale, lease or transfer separate from the parent lot. Native growth

protection areas shall be included in the area of the parent lot for purposes of subdivision method and minimum lot size.

5. The City of Gold Bar shall require, as a condition of any permit issued pursuant to this ordinance, that the applicant select one of the following methods to protect the native growth protection areas pursuant to Section 4.9.a:

   a. The applicant shall record with the Snohomish County Auditor, a permanent and irrevocable deed restriction on the property title of all lots containing a native growth protection area. Such deed restriction(s) shall prohibit in perpetuity the development, alteration, or disturbance or vegetation within the critical area except as allowed for in this ordinance or for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from any agency with jurisdictional over such activity; or

   b. The permit holder, shall record with the Snohomish County Auditor, an easement to the City of Gold Bar or other public or non-profit entity specified by the City of Gold Bar for the protection of wildlife and/or vegetation within a critical area and/or its buffer.

6. Deed Restriction Language

   The deed restriction shall contain the following language:

   a. "Before beginning and during the course of any grading, building construction, or other development activity on a lot or development site subject to this deed restriction~ the common boundary between the area subject to the deed restriction and the area of development activity must be identified and marked. -

   b. Regardless of the legal method of protection chosen, responsibility for maintaining tracts shall be held by the property owner, the permit applicant or designee, adjacent lot owners, a homeowners association, or other entity as designated on the deed.

   c. The following note shall appear on the face of all plats, short plats, or other approved site plans containing separate sensitive area tracts, and shall be recorded on the title of record for all affected lots:

      "Note: All lots adjoining separate sensitive area tracts identified as Native Growth Protection Area (N.G.PA.) or protected by deed restriction are responsible for maintenance and protection of the tract(s). Maintenance includes insuring that no alterations except those allowed by Section 3.7 of the Critical areas Ordinance of the City of Gold Bar occur within the separate tract(s) and that all vegetation remains undisturbed unless the express written authorization of the City of Gold Bar has been received".

4.10 Bonds to ensure mitigation, maintenance, and monitoring

A. When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City

shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the City. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional.

B. The bond shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

C. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the City attorney.

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

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

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

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

H. Any funds recovered pursuant to this Section shall be used to complete the required mitigation.

4.11 Suspension or Revocation of a Permit

A. Suspension, Revocation

1. In addition to other penalties provided for elsewhere, the City of Gold Bar may stop work on a project if it finds that the applicant or permittee has not complied with any or all of the conditions or limitations set forth in the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the approved application. Work may resume when the applicant has complied.

4.12 Re-submittal of Denied Permit Applications

Applications which have been denied may not be resubmitted for a period of eighteen months. An application shall be construed as a re-submittal if it is substantially similar to the denied application. An application shall not be construed as substantially similar to a denied application

if it significantly and materially reduces the adverse environmental impacts of the denied application or it significantly reduces noncompliance with this ordinance.

4.13 Critical areas reasonable use permit

A. If the application of this Ordinance would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this Section.

B. An application for a reasonable use exception shall include a critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents).

C. The planning commission shall review the application, conduct a public hearing pursuant to the hearing provisions of the development code, and make recommendation to the city council. The city council shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use permit criteria in Subsection (D).

D. **Reasonable use permit criteria.** The criteria for review and approval of reasonable use permit is:

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

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

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

4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

5. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

E. **Burden of proof.** The applicant has the burden of proving that the application meets the stated reasonable use permit criteria.

Section 5 Wetlands

5.1 Designation and rating wetlands

A. **Designating wetlands.** Wetlands are those areas, designated in accordance with the *Washington State Wetland Identification and Delineation Manual*, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the City meeting the wetland designation criteria in the *Identification and Delineation Manual*, regardless of any formal identification, are designated wetlands.

B. **Wetland ratings.** Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System (*Ecology Publication #93-74*) or as revised by Ecology. This system contains the definitions and methods for determining the category of wetland. Wetland rating categories shall not change due to illegal modifications.

5.2 Wetlands performance standards

A. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this Ordinance. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and other critical areas, or that the impacts to the functions and values will be fully mitigated.

B. **Category II and III wetlands.** Water-dependent activities may be allowed in Category II and III wetlands where there are no practical alternatives that would have a less adverse impact on the wetland and other critical areas.

C. **Category IV wetlands.** Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only practical alternative that will accomplish the applicant's objectives.

D. **Wetland buffers**

1. **Standard buffer widths.** The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

a.	Category I	150 feet
b.	Category II	100 feet
c.	Category III	100 feet
d.	Category IV	35 feet

2. **Measurement of wetland buffers.** Buffers shall be measured from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

3. **Increased wetland buffer widths.** The City may require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics.

4. **Wetland buffer width averaging.** The Public Works Director may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that:

    a. It will not reduce wetland functions or values;

    b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

    c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

    d. The buffer width is not reduced to less than fifty percent (50%) of the standard width or fifty (50) feet, whichever is greater, except for buffers between Category IV wetlands and low or moderate intensity land uses.

5. **Reduction of wetland buffer widths**

    a. The Public Works Director may allow the standard wetland buffer width to be reduced in accordance with an approved critical area report on a case-by-case basis when it is determined that a smaller area is adequate to protect the wetland functions and values based on site-specific characteristics.

    b. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:

        i. The critical area report provides a sound rationale for a reduced buffer based on the best available science;
        ii. The existing buffer area is well-vegetated with native species and has less than ten percent (10%) slopes; and
        iii. No direct or indirect, short-term or long-term, adverse impacts to wetlands will result from the proposed activity.

    c. The Public Works Director may require long-term monitoring of the buffer and wetland. Subsequent corrective actions may be required if adverse impacts to wetlands are discovered during the monitoring period.

6. **Buffer conditions shall be maintained.** Except as otherwise specified or allowed in accordance with this Ordinance, wetland buffers shall be retained in an undisturbed condition.

E. **Signs and fencing of wetlands**

1. **Temporary markers**. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and inspected by the Public Works Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

2. **Permanent signs**. As a condition of any permit or authorization issued pursuant to this Chapter, the Public Works Director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

   Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Public Works Director:

   "Protected Wetland Area"
   Do Not Disturb
   Contact [local contact information]
   Regarding Uses and Restriction"

3. **Fencing**

   a. The City shall condition any permit or authorization to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

   b. Fencing installed as part of a proposed activity or as required in this Subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

5.3 Wetlands mitigation requirements

A. Mitigation plans shall be consistent with the Department of Ecology *Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals*, 1994, as revised.

B. Wetland mitigation actions shall not result in a net loss of wetland area except when the following criteria are met:

1. The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment; or

2. The lost wetland area provides minimal functions as determined by a site-specific function assessment and other replacement habitats provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement.

C. Mitigation actions shall be conducted within the same sub-drainage basin.

D. **Mitigation ratios**

1. **Acreage replacement ratios.** The following ratios shall apply to creation or restoration. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Category I	6-to-1
Category II	3-to-1
Category III	2-to-1
Category IV	1.5-to-1

2. **Decreased replacement ratio.** The Mayor or his or her designee may decrease these ratios under the following circumstances:

a. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;

b. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or

c. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.

E. **Wetlands enhancement as mitigation**

1. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under Subsection D.

5.4 Subdivisions associated with wetlands.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

A. Land that is located wholly within a wetland or its buffer may not be subdivided.

B. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

   1. Located outside of the wetland and its buffer; and

   2. Meets the minimum lot size requirements.

C. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the City determines that no other feasible alternative exists in and when consistent with this Ordinance.

Section 6 Critical Aquifer Recharge Areas

6.1 Critical aquifer recharge areas designation.
Critical aquifer recharge areas (CARA) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARA include:

A. Those aquifer recharge areas that have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

B. Wellhead protection areas defined by the boundaries of the ten (10) year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

C. Those critical aquifer recharge areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines.

D. Susceptible ground water management areas as designated pursuant to Chapters 173-100 WAC.

E. Special protection areas as defined by WAC 173-200-090.

F. Those aquifer recharge areas meeting the criteria for susceptibility or vulnerability established by the state Department of Ecology

6.2 Aquifer recharge area susceptibility ratings.
Aquifer recharge areas shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by the state Department of Ecology.

6.3 Critical area report – Additional requirements for critical aquifer recharge areas.
In addition to the general critical area report requirements of Section 1.210, critical area reports for critical aquifer recharge areas shall contain a hydrogeological assessment. A hydrogeologic assessment shall include the following site and proposal related information at a minimum:

A. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;

B. Ground water depth, flow direction and gradient based on available information;

C. Currently available data on wells and springs within 1,300 feet[1] of the project area;

D. Location of other critical areas, including surface waters, within 1,300 feet of the project area;

E. Best management practices proposed to be utilized.

[1] Distance of 1300 feet is based on "Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances," by Ecology, July 2000, publication #97-30

F. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five (5) year period;

G. Ground water monitoring plan provisions; and

H. Discussion of the effects of the proposed project on the ground water quality and quantity, including:

1. Predictive evaluation of ground water withdrawal effects on nearby wells and surface water features; and

2. Predictive evaluation of contaminant transport based on potential releases to ground water; and

I. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

6.4 CARA Performance standards

A. The proposed activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, state Department of Health, and the health district.

B. **Storage Tanks.** All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

1. **Underground Tanks.** All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Prevent releases due to corrosion or structural failure for the operational life of the tank;

b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and,

c. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

2. **Aboveground Tanks.** All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

b. Have a primary containment area enclosing or underlying the tank or part thereof; and

c. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

C. **Vehicle repair and servicing**

1. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

D. **Spreading or injection of reclaimed water.** Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the departments of Ecology and Health.

1. Surface spreading must meet the ground water recharge criteria given in Chapter 90.46.080 RCW and Chapter 90.46.010(10).

2. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.

E. **State and federal regulations.** The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities

Activity	Statute - Regulation - Guidance
Above Ground Storage Tanks	Chapter 173-303 -640 WAC
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303-182 WAC
Hazardous Waste Generator (*Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)*	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146)
Oil and Gas Drilling	Chapter 332-12-450 WAC, WAC , Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC

Activity	Statute - Regulation - Guidance
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18-015 WAC
Waste Water Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

6.5 Uses prohibited from critical aquifer recharge areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

A. **Landfills.** Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, woodwaste, and inert and demolition waste landfills;

B. **Underground injection wells.** Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

C. **Mining**

1. Metals and hard rock mining.

2. Sand and gravel mining is prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable.

D. **Wood treatment facilities.** Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

E. **Storage, processing, or disposal of radioactive substances.** Facilities that store, process, or dispose of radioactive substances; and

F. **Other**

1. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

2. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;

3. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.

Section 7 Geologically Hazardous Areas

7.1 Designation of geologically hazardous areas.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

A. Erosion hazard;

B. Landslide hazard;

C. Seismic hazard;

D. Mine hazard;

E. Volcanic hazard; and

F. Other geological events including tsunamis, mass wasting, debris flows, rock falls, and differential settlement.

7.2 Designation of specific geological hazard areas

A. **Erosion hazard areas.** Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.

B. **Landslide hazard areas.** Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

1. Areas of historic failures, such as:

   a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

   b. Those areas mapped by the Department of Ecology (Coastal Zone Atlas) or the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

   c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

2. Areas with all three of the following characteristics:

a. Slopes steeper than fifteen percent (15%); and

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage;

3. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

5. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking;

6. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;

7. Areas that show evidence of, or are at risk from snow avalanches;

8. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

9. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

C. **Seismic hazard areas.** Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

1. The magnitude of an earthquake;

2. The distance from the source of an earthquake;

3. The type of thickness of geologic materials at the surface; and

4. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

D. **Mine hazard areas.** Mine hazard areas are those areas underlain by, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be

considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

E. **Volcanic hazard areas.** Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

F. **Other hazard areas.** Geologically hazardous areas shall also include areas determined by the Mayor to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

7.3 Critical area report – Additional requirements for geologically hazardous areas

A. **Geological hazards assessment.** A critical area report for a geologically hazardous area shall contain an assessment of geological hazards:

1. **Assessment of geological characteristics.** The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

    a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

    b. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

    c. A description of the vulnerability of the site to geologic events;

2. **Analysis of proposal.** The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property and affected adjacent properties; and

3. **Minimum buffer and building setback.** The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

B. **Mitigation of long-term impacts.**
When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

7.4 Critical area report – Additional technical information requirements for specific geological hazards.

In addition to the general critical area report requirements of Sections 4.5 and 7.3, critical area reports for geologically hazardous areas must meet the requirements of this Section.

A. **Erosion and landslide hazard areas.** In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

1. **Site plan.** The critical areas report shall include a copy of the site plan for the proposal showing:

   a. The height of slope, slope gradient, and cross section of the project area;

   b. The location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and

   c. The location and description of surface water runoff features;

2. **Hazards analysis.** The hazards analysis component of the critical areas report shall specifically include:

   a. A description of the extent and type of vegetative cover;

   b. A description of subsurface conditions based on data from site-specific explorations;

   c. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations and all structural improvements;

   d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

   e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred year storm event;

   f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.

   g. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;

   h. Recommendations for building siting limitations;

   i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

3. **Geotechnical engineering report**. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations and estimates of settlement performance;

b. Recommendations for drainage and subdrainage improvements;

c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

d. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.

4. **Erosion and sediment control plan.** For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the adopted stormwater management regulations;

5. **Drainage plan.** The technical information shall include a drainage plan for the collection, transport, treatment, discharge and/or recycle of water prepared in accordance with the adopted stormwater management regulations. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

6. **Mitigation plans.** Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long term soil stability.

7. **Monitoring surface waters.** If the Public Works Director determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the City.

B. **Seismic hazard areas.** In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:

1. The site map shall show all known and mapped faults within two hundred (200) feet of the project area or that have potential to be affected by the proposal.

2. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).

3. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits, and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.

C. **Mine hazard areas.** In addition to the basic report requirements, a critical area report for a mine hazard critical area shall also meet the following requirements:

1. **Site plan.** The site plan shall delineate the following found within two hundred (200) feet of or directly underlying the project area, or that have potential to be affected by the proposal:

   a. The existence of mines, including all significant mine features, such as mine entries, portals, adits, mine shafts, air shafts, and timber shafts;

   b. The location of any nearby mines that may impact or be affected by the proposed activities;

   c. The location of any known sinkholes, significant surface depressions, trough subsidence features, coal mine spoil piles and other mine-related surface features; and

   d. The location of any prior site improvements that have been carried out to mitigate abandoned coal mine features;

2. **Hazards analysis.** The hazards analysis shall include a discussion of the potential for subsidence on the site and classify all mine hazards areas within two hundred (200) feet of the project area, or that have potential to be affected by the proposal, as either low, moderate, or severe. The hazards analysis shall include a mitigation plan containing recommendations for mitigation of the potential for future trough subsidence, as appropriate, for the specific proposed alteration; and recommendations for additional study, reports, and development standards if warranted.

D. **Other geologically hazardous areas.** In addition to the basic requirements, the Public Works Director may require additional technical information to be submitted when determined to be necessary to the review the proposed activity and the subject hazard. Additional technical information that may be required, includes, but is not limited to:

1. **Site plan.** The site plan shall show all hazard areas located within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and

2. **Hazards analysis.** The hazards analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

7.5 Geologically hazardous areas performance standards

A. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

1. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

2. Will not adversely impact other critical areas;

3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

4. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

B. **Critical facilities prohibited.** Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

7.6 Geologically hazardous areas performance standards – Specific geological hazards

A. **Erosion and landslide hazard areas.** Activities on sites containing erosion or landslide hazards shall meet the standards of *Performance standards,* Section 7.5 and the specific following requirements:

1. **Buffer required.** A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the Public Works Director to eliminate or minimize the risk of property damage, death or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

   a. **Minimum buffer.** The minimum buffer shall be equal to the height of the slope or fifty (50) feet, whichever is greater.

   b. **Buffer reduction.** The buffer may be reduced to a minimum of twenty (20) feet when a qualified professional demonstrates to the City's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

   c. **Increased buffer.** The buffer may be increased where the City determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

2. **Alterations.** Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

   a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

   b. The development will not decrease slope stability on adjacent properties; and

   c. Such alterations will not adversely impact other critical areas;

3. **Design standards.** Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this Ordinance. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

   a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic

conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code.

b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

c. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes;

g. Development shall be designed to minimize impervious lot coverage;

4. **Vegetation shall be retained.** Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

5. **Seasonal restriction.** Clearing shall be allowed only from May 1st to October 1st of each year provided that the City may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the City or the Department of Natural Resources;

6. **Utility lines and pipes.** Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

7. **Point discharges.** Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

b. Discharged at flow durations matching predevelopment conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff,

and where it can be demonstrated that such discharge will not increase the saturation of the slope;

8. **Subdivisions.** The division of land in landslide hazard areas and associated buffers is subject to the following:

   a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.

   b. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the City determines that no other feasible alternative exists.

9. **Prohibited development.** On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

B. **Mine hazard areas.** Activities proposed to be located in mine hazard area shall meet the standards of *Performance standards,* Section 7.5 and the specific following requirements:

1. **Alterations.** Alterations of a mine hazard area and/or buffer are allowed, as follows:

   a. All alterations are permitted within a mine hazard area with a low potential for subsidence;

   b. Within a mine hazard area with a moderate potential for subsidence and at coal mine by-product stockpiles, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage using appropriate criteria to evaluate the proposed use, as recommended in the hazard analysis; and

   c. Within a mine hazard area with a severe potential for subsidence only those activities allowed in accordance with Section 4.050 will be allowed.

2. **Subdivisions.** The division of land in mine hazard areas and associated buffers is subject to the following:

   a. Land that is located within two hundred (200) feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is two hundred (200) feet away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided.

   b. Access roads and utilities may be permitted within two hundred (200) feet of a mine hazard area with a moderate or severe potential for subsidence if the City determines that no other feasible alternative exists.

3. **Reclamation activities.** For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings shall be submitted to the City in a format specified by the City.

C. **Other hazard areas.** Activities on sites containing or adjacent to other geologically hazardous areas, shall meet the standards of *Performance standards*, Section 7.5.

Section 8 Fish and Wildlife Habitat Conservation Areas

8.1 Designation of fish and wildlife habitat conservation areas.
All of the following habitat areas are designated critical areas:

A. **Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association**.

B. **State priority habitats and areas associated with state priority species,** including, but limited to, riparian areas associated with water ways**.**

C. **Habitats and species of local importance**. Habitats and species of local importance are those designated by the City, including those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection through possible retention or recovery of connectivity of habitat features.

D. **Naturally occurring ponds under twenty (20) acres.** Naturally occurring ponds are those ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

E. **Waters of the state.** Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031.

F. **Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity**.

G. **State natural area preserves and natural resource conservation areas.**

8.2 Critical area report – Additional requirements for habitat conservation areas.
In addition to the general critical area report requirements of Section 1.140, critical area reports for habitat conservation areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. **Habitat assessment.** A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on

or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

3. A discussion of any federal, state, or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

5. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with *Mitigation sequencing,* Section 4.7; and

6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

B. **Additional information may be required.** When appropriate due to the type of habitat or species present or the project area conditions, the City may also require the habitat management plan to include:

1. An evaluation by a qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

2. A request for consultation with the Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and

3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

8.3 Habitat performance standards – General requirements

A. **Alterations prohibited.** Land development and use shall be prohibited from habitat conservation areas and their buffers, except in accordance with this Ordinance.

B. **Mitigation shall result in contiguous corridors.** When mitigation is required to offset impacts, mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

C. **Approvals of activities may be conditioned.** The City shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

1. Establishment of buffer zones;

2. Preservation of critically important vegetation;

3. Limitation of access to the habitat area, including fencing to deter unauthorized access;

4. Seasonal restriction of construction activities;

5. Establishment of a duration and timetable for periodic review of mitigation activities; and

6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

D. **Buffers**

1. **Establishment of buffers.** The City shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect the habitat conservation areas. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection areas in accordance with Sections 1.200.

2. **Seasonal restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

3. **Habitat buffer averaging.** The City may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report only if:

   a. It will not reduce stream or habitat functions;

   b. It will not adversely affect salmonid habitat;

   c. It will provide additional natural resource protection, such as buffer enhancement;

   d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

   e. The buffer area width is not reduced by more than fifty percent (50%) in any location;

E. **Signs and fencing of habitat conservation areas**

1. **Temporary markers**. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the Public Works Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

2. **Permanent signs**. As a condition of any permit or authorization issued pursuant to this Chapter, the Public Works Director may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

   a. Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every fifty (50) feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Public Works Director:

   "Habitat Conservation Area"
   Do Not Disturb
   Contact [local contact information]
   Regarding Uses and Restriction"

   b. The provisions of subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

3. **Fencing**

   a. The Public Works Director, or his or her designee, shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Public Works Director, or his or her designee, shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

   b. 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.

   c. Fencing installed as part of a proposed activity or as required in this Subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

F. **Subdivisions.** The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

1. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

2. Land that is located partially within a habitat conservation area or its buffer may be divided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of the adopted zoning regulations.

3. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the City determines that no other feasible alternative exists and when consistent with this Ordinance.

8.4 Habitat performance standards – Specific habitats

A. Endangered, threatened, and sensitive species

1. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by the management rules established by the Department of Fish and Wildlife or applicable state or federal agency.

2. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Department of Fish and Wildlife for animal species, the Department of Natural Resources for plant species, and other appropriate federal or state agencies.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred (800) feet, or within one half mile (2,640 feet) and in a shoreline foraging area. The City shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Department of Fish and Wildlife.

B. Anadromous fish

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

   a. Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;

   b. An alternative alignment or location for the activity is not feasible;

   c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

   d. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques according to an approved critical area report, and;

   e. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the adopted shoreline master program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

C. **Riparian habitat areas.** Unless otherwise allowed in this Ordinance, all structures and activities shall be located outside of the riparian habitat area.

1. **Riparian habitat area widths.** A riparian habitat area shall have the following width, unless a greater width is required pursuant to this section, Subsection 3, or a lesser width is allowed pursuant to this section, Subsection 4. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified.

Riparian Habitat Areas	
Stream type	**RHA widths**
Type 1 & 2; or shorelines of the state, or shorelines of statewide significance	150 feet
Type 3; 5-20 feet wide	100 feet
Type 3; < 5 feet wide	75 feet
Type 4 and 5	50 feet

2. **Increased riparian habitat area widths**. The riparian habitat area widths shall be increased, as follows:

a. When the City determines that the riparian habitat width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;

b. When the frequently flooded area exceeds the riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;

c. The riparian habitat width shall be measured from the outer edge of the channel migration zone when a channel migration zone is present.

d. When the habitat area is in an area of high blowdown potential, the riparian habitat width shall be expanded an additional fifty (50) feet on the windward side; and

e. When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

3. **Riparian habitat area width averaging**. The City may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:

a. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;

b. The width reduction will not degrade the habitat, including habitat for anadromous fish;

c. The proposal will provide additional habitat protection;

d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;

e. The recommended riparian habitat area width is not reduced by more than fifty percent (50%) in any one location;

f. The width reduction will not be located within another critical area or associated buffer; and

g. The reduced riparian habitat area width is supported by best available science.

4. **Riparian habitat mitigation.** Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub drainage basin as the habitat impacted.

5. **Alternative mitigation for riparian habitat areas.** The performance standards set forth in this Subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

D. **Aquatic habitat.** The following specific activities may be permitted within a riparian habitat area, pond, lake, water of the state, or associated buffer when the activity complies with the following standards and the adopted shoreline master program.

1. **Clearing and Grading.** When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

a. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year, provided that the City may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

b. Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

c. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

d. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

e. Erosion and sediment control that meets or exceeds the standards set forth in the adopted stormwater management regulations shall be provided.

2. **Shoreline erosion control measures.** New, replacement, or substantially improved, shoreline erosion control measures may be permitted be in accordance with an approved critical area report that demonstrates the following:

    a. Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter (1/4) mile of the project area.

    b. The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.

    c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the proposed shoreline erosion control measures.

3. **Streambank stabilization.** Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

4. **Launching ramps – Public or private.** Launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:

    a. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter (1/4) mile of the site;

    b. The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;

    c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the ramp; and

5. **Docks.** Repair and maintenance of an existing dock or pier may be permitted in accordance with an approved critical area report subject to the following:

    a. There is no increase in the use of materials creating shade for predator species or eelgrass;

    b. There is no expansion in overwater coverage;

    c. There is no new spanning of waters between three (3) and thirteen (13) feet deep;

    d. There is no increase in the size and number of pilings; and

    e. There is no use of toxic materials (such as creosote) that come in contact with the water.

6. **Roads, trails, bridges, and rights-of-way.** Construction of trails, roadways, and minor road bridging, less than or equal to thirty (30) feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

a. There is no other feasible alternative route with less impact on the environment;

b. The crossing minimizes interruption of downstream movement of wood and gravel;

c. Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

d. Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

e. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

f. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

g. Road bridges are designed according to the Department of Fish and Wildlife *Fish Passage Design at Road Culverts*, March 1999, and the National Marine Fisheries Service *Guidelines for Salmonid Passage at Stream Crossings*, 2000; and

h. Trails and associated viewing platforms shall not be made of continuous impervious materials.

7. **Utility Facilities.** New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report if they comply with the following standards:

a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

c. The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

8. **Public flood protection measures.** New public flood protection measures and expansion of existing ones may be permitted, subject to the City's review and approval of a critical area report and the approval of a Federal Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.

9. **Instream structures.** Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the City and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

10. **Stormwater conveyance facilities.** Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

    a. No other feasible alternatives with less impact exist;

    b. Mitigation for impacts is provided;

    c. Stormwater conveyance facilities shall incorporate fish habitat features; and

    d. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

11. **On-site sewage systems and wells.**
    a. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved primary structure for which it is not feasible to connect to a public system.

    b. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:

        i. Connection to an available public sanitary sewer system;
        ii. Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the health district standards; or
        iii. Repair to the existing on-site septic system.

Section 9 Frequently Flooded Areas

9.1 Frequently Flooded Areas

Areas of 100-year flood, base flood elevations and flood hazard factors have been delineated for most flood hazard areas within the City of Gold Bar. All new subdivisions, short plats, grading, fill and clearing permits, variances, conditional use permits, building permits and rezones within a flood zone of the Flood Insurance Rate Map shall complete a survey and elevation study to determine the appropriate 100 year flood plain delineation. All permits shall comply with the applicable sections of the Gold Bar Municipal Code to assure flood damage prevention and be required to delineate the floodplain. The current 100-year flood areas, as delineated on the Flood Insurance Rate Maps for the City of Gold Bar, may not reflect the actual 100-year floodplain. Past 100-year events have not occurred in all the areas delineated and will need to be mapped and further verified by the City of Gold Bar.

Section 10 Temporary Emergency Permit, Enforcement

10.1 Temporary Emergency Permit

A. Notwithstanding the provisions of this ordinance or any other laws to the contrary, the City of Gold Bar may issue a temporary permit for a project within a sensitive area if-

1. The City of Gold Bar determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and

2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this act and other applicable laws.

B. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this act and shall:

1. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

2. Require, within this 90 day period, the restoration of any sensitive area altered as a result of the emergency activity, except that if more than the 90 days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

C. Issuance of an emergency permit by the City of Gold Bar does not preclude the necessity to obtain necessary approvals from appropriate federal and state authorities. The emergency permit may be terminated at any time without process upon a determination by the City of Gold Bar that the action was not or is no longer necessary to protect human health, property value, or the environment.

10.2 Enforcement

A person or entity who fails to conform to the terms of this ordinance shall be construed as having violated the Gold Bar Zoning Code, Title 17 GBMC, for purposes of Chapter 17.84 GBMC, as now or hereafter amended, pertaining to enforcement of the Gold Bar Zoning Code.

Section 11 Non-Conforming Activities

A regulated activity that was approved prior to the passage of this ordinance and to which significant economic resources have been committed pursuant to such approval but which is not in conformity with the provisions of this ordinance may be continued subject to the following:

A. No such activity shall be expanded, changed, enlarged or altered in any way that increase the extent of its non-conformity except for activities allowed with an emergency permit issued under Section 10.1;

B. Except for cases of discontinuance as part of normal agricultural practices, if a non-conforming activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this ordinance;

C. If the value of a nonconforming structure is reduced by more than 50% by human activities or an act of God;

D. Activities or adjuncts thereof that are or become nuisances shall not be entitled to continue nonconforming activities.